THIRTY-FIRST DAY

(Friday, March 5, 1937)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Calvert.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Hoskins
Adkins	Howard
Alexander	Huddleston
Alsup	Hull
Amos	Hyder
Baker	Jackson
Bates	Johnson of Ellis
Beckworth	Johnson of Tarrant
Boethel	Jones of Angelina
Bond	Jones of Atascosa
Boyer	Jones of Falls
Bradbury	Jones of Wise
Bradford	Keefe
Bridgers	Keith
Broadfoot	Kelt
Brown	Kenyon
Burton	Kern
Cagle	King
Callan	Knetsch
Carssow	Langdon
Cathey	Lankford
Cauthorn	Lanning
Celaya	Leath
Cleveland	Leonard
Davis of Haskell	Leyendecker
Davis of Jasper	Little
Davisson of Eastland	Loggins
Davison of Fisher	London
Dean	Lucas
Deglandon	Mann
Derden	Mauritz
Dickison	Mays
Dollins	McConnell
England	McCracken
Farmer	McDonald
Felty	McFarland
Fielden	McKee
Fox	McKinney
Fuchs	Metcalfe
Gibson	Moffett
Graves	Monkhouse
Hamilton	Morris
Hankamer	Morse
Harbin	Newton
Hardin	Nicholson
Harper	Oliver
Harrell	Palmer
Harris of Archer	Patterson of Mills
Harris of Dallas	Patterson of Travis
Harris of Dickens	Pope
Heflin	Powell
Herzik	Prescott
Holland	Quinn
	Reader
	Reed of Dallas
	Rhodes
	Riddle
	Roark
	Ross
	Russell
	Rutta
	Schuenemann
	Settle
	Sewell
	Sharpe
	Shell
	Simpson
	Skaggs
	Smith of Hopkins
	Smith of Matagorda
	Smith of Tarrant
	Stevenson
	Stinson
	Stocks
	Talbert
	Tarwater
	Tennyson
	Thornberry
	Thornton
	Vale
	Waggoner
	Walker
	Weldon
	Westbrook
	Winfree
	Wood
	Worley

Absent—Excused

Bell	James
Blankenship	Petsch
Colquitt	Ragsdale
Hanna	Reed of Bowie
Hartzog	Tennant

A quorum was announced present.

Rev. George W. Coltrin, Chaplain, offered prayer.

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of important business:

Mr. Tennant for today, on motion of Mr. Gibson.

Mr. Ragsdale for today, on motion of Mr. Monkhouse.

Mr. Petsch for today, on motion of Mr. Graves.

Mr. Patterson of Mills for today, on motion of Mr. Brown.

Mr. Hanna for today, on motion of Mr. Smith of Tarrant.

Mr. Hartzog for today, on motion of Mr. Morse.

Mr. Blankenship for today, on motion of Mr. Leonard.

The following Members were granted leaves of absence on account of illness:

Mr. Reed of Bowie for today, on motion of Mr. Reed of Dallas.

Mr. Bell for today, on motion of Mr. Keefe.

Mr. James for today, on motion of Mr. Johnson of Ellis.

HOUSE BILLS ON FIRST READING

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Patterson of Travis, Mr. Knetsch, Mr. Moffett and Mr. Thornberry:

H. B. No. 977, A bill to be entitled "An Act appropriating the several sums of money herein specified as an emergency appropriation for the support and maintenance of the Bureaus of Identification and Records and of Intelligence, Department of Public Safety, and declaring an emergency."

Referred to the Committee on Appropriations.

By Mr. Thornton:

H. B. No. 978, A bill to be entitled "An Act providing for a rural school supervisor in certain counties; prescribing the qualifications and duties of said supervisor; prescribing the method of employing the supervisor; prescribing the salary of said supervisor and how it shall be paid; providing other things incidental to said purpose, and declaring an emergency."

Referred to the Committee on Education.

BILL ORDERED NOT PRINTED

On motion of Mr. Thornton, House Bill No. 975 was ordered not printed.

HOUSE BILL NO. 884 RECOMMITTED

Mr. Thornton moved that the House Rule, which relates to the recommitting of bills after same have been reported adversely, be suspended, at this time, for the purpose of recommitting House Bill No. 884 to the Committee on Appropriations.

The motion prevailed.

BILL RE-REFERRED

Mr. Fielden moved that House Bill No. 853 be withdrawn from the Committee on Counties and referred to the Committee on Appropriations.

The motion prevailed.

ADDITIONAL SIGNERS OF BILL AND RESOLUTION

By unanimous consent of the House, the following Members were authorized to sign bill and resolution, as coauthors of same, as follows:

Mr. Moffett and Mr. Hanna, House Joint Resolution No. 23.

Mr. Smith of Tarrant, Mr. Amos and Mr. Farmer, House Bill No. 49.

RELATIVE TO THE PURCHASE AND DEVELOPMENT OF CERTAIN LAND IN BASTROP COUNTY, TEXAS

Mr. Fuchs offered the following resolution:

Whereas, The Land Utilization Division of the Resettlement Administration has some Ninety-eight (98) Land Use Projects throughout the United States and the State of Texas has been granted only one such project; and

Whereas, There is a large body of eroded and devastated land in Bastrop County known as the Lost Pine Area that should be developed by reforestation and also as a recreation area and wild life sanctuary; and

Whereas, Our late beloved Congressman, James P. Buchanan, asked the Resettlement Administration for funds to purchase and develop this area; therefore, be it

Resolved, That we ask the Resettlement Administration to allocate such amount necessary to purchase and develop the Lost Pine Area and such Government owned and developed area be known as the Buchanan Lost Pine Project in honor of the late Congressman Buchanan; and, be it further

Resolved, That copies of this resolution be forwarded to the President of the United States and a copy to each Texas Senator and to each Texas Congressman.

FUCHS,
DEGLANDON,
RIDDLE.

The resolution was read second time, and was adopted.

PROVIDING FOR PAYMENT FOR COPY OF CERTAIN ADDRESS

Mr. Graves offered the following resolution:

Whereas, On the occasion of March 2, 1937, when Senator Connally addressed the Legislature, the House ordered his speech printed in the Journal; and

Whereas, The said speech was taken down and transcribed by H. P.

Bickler, and a reasonable charge of such labor is the sum of $12.50; now, therefore,

The House hereby authorizes the execution and delivery to the said H. P. Bickler of a warrant for the sum of $12.50, payable out of the Contingent Fund of the House.

The resolution was read second time.

Mr. Prescott offered the following amendment to the resolution:

Amend the resolution so as to include the President's "Victory-Dinner" speech of March 4, 1937.

Mr. Gibson raised a point of order, on further consideration of the amendment, on the ground that the amendment is not germane to the resolution.

The Speaker sustained the point of order.

Mr. Wood moved to table the resolution.

The motion to table was lost.

Question recurring on the resolution, it was adopted.

MESSAGE FROM THE GOVERNOR

The Speaker laid before the House, and had read the following message from the Governor:

Austin, Texas, March 4, 1937.

To the Members of the Forty-fifth Legislature:

While I am of the opinion that the subject matter covered by the pending amendment to House Bill No. 167 has already been covered by my message to the Legislature, yet to remove any doubt I hereby respectfully submit for immediate emergency action the matter of in anywise regulating the operation of race tracks or horse racing as specifically set out in said House Bill No. 167 and the proposed amendment pending before the Senate.

Respectfully submitted,
JAMES V. ALLRED.
Governor of Texas.

MESSAGE FROM THE SENATE

Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. B. No. 415, A bill to be entitled "An Act amending subsection (b) of Section 11 of Article 2 of House Bill No. 8, passed by the Third Called Session of the Forty-fourth Legislature, said bill being known as the 'Omnibus Tax Bill', and declaring an emergency."

S. C. R. No. 42, Granting permission to Judge R. T. Brown to be absent from the State at certain intervals.

Respectfully,
BOB BARKER,
Secretary of the Senate.

PROVIDING FOR PRINTING OF ADDRESS OF PRESIDENT FRANKLIN D. ROOSEVELT

Mr. Davis of Haskell moved that the address of President Franklin D. Roosevelt, delivered on March 4, be printed in the Journal.

Mr. Dean moved to table the motion to print.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—29

Alsup	Keith
Beckworth	Kenyon
Burton	Leyendecker
Cagle	Mauritz
Dean	McKinney
Derden	Morris
Dickison	Nicholson
Dollins	Prescott
England	Riddle
Graves	Sharpe
Hardin	Smith of Matagorda
Harrell	Thornton
Harris of Archer	Weldon
Herzik	Worley
Johnson of Tarrant	

Nays—86

Adkins	Cleveland
Amos	Davis of Haskell
Baker	Davis of Jasper
Boethel	Davison of Fisher
Boyer	Davisson of Eastland
Bradbury	Deglandon
Bridgers	Farmer
Brown	Fielden
Callan	Fox
Carssow	Fuchs
Cathey	Gibson
Cauthorn	Hamilton
Celaya	

Harbin
Harper
Harris of Dallas
Harris of Dickens
Heflin
Holland
Howard
Huddleston
Hull
Hyder
Jackson
Johnson of Ellis
Jones of Angelina
Jones of Atascosa
Jones of Wise
Kelt
Kern
King
Knetsch
Langdon
Lankford
Lanning
Leonard
Little
London
Lucas
Mann
Mays
McCracken
McDonald
McFarland
Metcalfe
Moffett
Monkhouse
Morse
Newton
Patterson of Travis
Powell
Quinn
Reader
Reed of Dallas
Rhodes
Roark
Ross
Russell
Rutta
Schuenemann
Sewell
Shell
Simpson
Smith of Hopkins
Smith of Tarrant
Stinson
Stocks
Tarwater
Tennyson
Thornberry
Waggoner
Walker
Winfree
Wood

Present—Not Voting

Broadfoot
McConnell
Talbert

Absent

Alexander
Bates
Bond
Bradford
Felty
Hankamer
Hoskins
Jones of Falls
Keefe
Leath
Loggins
McKee
Oliver
Palmer
Pope
Settle
Skaggs
Stevenson
Vale
Westbrook

Absent—Excused

Bell
Blankenship
Colquitt
Hanna
Hartzog
James
Patterson of Mills
Petsch
Ragsdale
Reed of Bowie
Tennant

Question recurring on the motion to print the address, it prevailed.

Mr. Fielden moved that the address of President Franklin Delano Roosevelt precede the address of Senator Connally in the order of printing in the Journal.

Mr. Derden moved to table the motion by Mr. Fielden.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—38

Baker
Beckworth
Boyer
Broadfoot
Burton
Cagle
Carssow
Cathey
Cauthorn
Derden
England
Gibson
Graves
Hardin
Harper
Harris of Dallas
Holland
Hoskins
Jones of Falls
Keith
Kenyon
Leyendecker
Mauritz
Mays
McDonald
McKinney
Morris
Newton
Nicholson
Patterson of Travis
Smith of Hopkins
Smith of Matagorda
Stinson
Stocks
Talbert
Thornton
Weldon
Wood

Nays—71

Adkins
Alsup
Amos
Boethel
Bradbury
Bradford
Brown
Callan
Celaya
Cleveland
Davis of Haskell
Davis of Jasper
Davison of Fisher
Davisson of Eastland
Dean.
Deglandon
Dickison
Dollins
Farmer
Fielden
Fuchs
Hamilton
Harrell
Harris of Archer
Harris of Dickens
Heflin
Howard
Huddleston
Hull
Hyder
Jackson
Johnson of Ellis
Jones of Angelina
Jones of Atascosa
Jones of Wise
Keefe
Kelt
Kern
King
Knetsch
Langdon
Lankford
Lanning
Leath
London
Lucas
Mann
McCracken
McKee
Metcalfe
Moffett
Morse
Powell
Prescott
Quinn
Reader
Reed of Dallas
Rhodes
Roark
Ross
Russell
Rutta
Sewell
Simpson
Smith of Tarrant
Tarwater
Tennyson

Thornberry	Walker
Waggoner	Worley

Present—Not Voting

Bridgers	Herzik
Harbin	McConnell

Absent

Alexander	Oliver
Bates	Palmer
Bond	Pope
Felty	Riddle
Fox	Schuenemann
Hankamer	Settle
Johnson of Tarrant	Sharpe
Leonard	Shell
Little	Skaggs
Loggins	Stevenson
McFarland	Vale
Monkhouse	Westbrook
	Winfree

Absent—Excused

Bell	Patterson of Mills
Blankenship	Petsch
Colquitt	Ragsdale
Hanna	Reed of Bowie
Hartzog	Tennant
James	

Question recurring on the motion by Mr. Fielden, it prevailed.

RELATIVE TO CONSIDERATION OF LOCAL AND UNCONTESTED BILLS

Mr. Gibson offered the following resolution:

Whereas, Last Monday night a large number of local and uncontested bills were passed by the House and are now pending on third reading and a large number of similar nature are now pending on second reading; now, therefore, be it

Resolved by the House of Representatives, That next Tuesday night, March 9, be set aside for the consideration and final passage of these bills passed to engrossment last Monday night, and for the consideration of other local and uncontested bills.

GIBSON,
THORNTON.

The resolution was read second time, and was adopted.

GRANTING PERMISSION TO BE ABSENT FROM THE STATE

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 42, Granting Judge R. T. Brown permission to be absent from the State.

Be It Resolved by the Senate of Texas, the House of Representatives concurring, That Judge R. T. Brown, Judge of the Fourth Judicial District Court of Texas, be and he is hereby granted permission to be absent from the State of Texas at such intervals and for such time as he may see fit and proper during the years 1937 and 1938, taking into consideration the condition of the docket of said Court.

The resolution was read second time, and was adopted.

TO MEMORIALIZE CONGRESS IN REGARD TO INTEREST RATE ON FEDERAL LAND BANK LOANS

Mr. Jones of Atascosa offered the following resolution:

H. C. R. No. 51, To memorialize Congress in regard to interest rate on Federal Land Bank Loans.

Whereas, Agriculture is one of the basic industries of Texas; and

Whereas, During the period of depression, no legislation passed by the National Congress, has been more beneficial or more conducive to recovery, than the reduction of interest on loans by the Federal Land Bank; and

Whereas, There is now pending before the National Congress, H. R. No. 1546, by Representative Marvin Jones, of Texas, which is as follows:

"A bill to extend for two additional years the 3½ per centum interest rate on certain Federal Land Bank Loans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of paragraph "Twelfth" of Section 12 of the Federal Farm Loan Act, as amended, is amended to read as follows:

"Notwithstanding the provisions of paragraph 'Second' of this section, the rate of interest on any loans on mortgage made through National farm loan associations or through agents as provided in Section 15, or purchased from jointstock land banks, by any Federal land bank, outstanding on May 12, 1933, or made through national farm loan associations after such date, shall not exceed 3½ per centum per annum for all interest pay-

able on installment dates occurring within a period of four years commencing July 1, 1935; and no payment of the principal portion of any installment of any such loan outstanding on June 3, 1935, shall be required prior to July 11, 1938, if the borrower shall not be in default with respect to any other condition or covenant of his mortgage."

(b) The fourth sentence of such paragraph "Twelfth" (relating to the time limit on payments made by the United States to land banks on account of such interest reduction) is amended to read as follows: "No payments shall be made to a bank with respect to any period after June 30, 1939."

Whereas, A continuation of said reduced interest rate at 3½ per centum interest per annum is necessary in order to further assist ranchmen and home owners in recovery; and

Whereas, Said reduction and interest rate will save to the people of Texas, millions of dollars, seriously necessary to such recovery; and

Whereas, The House of Representatives of Texas, the Senate concurring, believe said H. R. No. 1546, should pass, or some measure substantially accomplishing the result sought by said resolution; and

Whereas, The passage of said Act will permit the farmers and ranchmen, who have, during the period of depression, accumulated tax deficits and other obligations that are fast being removed, and the reduction in interest charge, provided in H. R. No. 1546, will materially aid said debtor class in again being able to hold their property and at the same time discharge their obligations; now, therefore, be it

Resolved by the House of Representatives of Texas, the Senate concurring, That the Legislature of Texas go on record as approving the matters set forth in the H. R. No. 1546, and memorializing Congress to actively support said resolution, and that the Chief Clerk of the House of Representatives, be authorized and directed to send a copy, under the seal of the said Clerk, to the Members of Congress of Texas; to Senator Morris T. Sheppard, and Senator Tom Connally, of Texas, and a copy of said resolution be forwarded, under the seal of the Clerk, to Honorable Jesse H. Jones, Chairman, Reconstruction Finance Corporation, as expressive of the desires and wishes of the Legislature of Texas.

JONES of Atascosa,
HERZIK,
TARWATER,
WALKER,
McFARLAND,
STEVENSON,
MAURITZ,
RUTTA,
WAGGONER,
POWELL,
CLEVELAND,
CATHEY,
NICHOLSON,
QUINN,
HARRIS of Archer,
JONES of Wise.

The resolution was read second time.

On motion of Mr. Jones of Atascosa, the resolution was referred to the Committee on Federal Relations.

HOUSE BILL NO. 215 WITH SENATE AMENDMENTS

Mr. Moffett called up from the Speaker' table, with Senate amendments, for consideration of the amendments,

H. B. No. 215, A bill to be entitled "An Act creating a special Road Law for Hardeman County, Texas, authorizing the funding and refunding of items of indebtedness, outstanding on December 14, 1936, against the road and bridge fund of said County, into time warrants, prescribing the terms and conditions in reference to said time warrants, and the duties of the officers in the issuance thereof; validating an order passed by the Commissioner's Court of Hardeman County, Texas, on December 14, 1936, and the items of indebtedness described therein and authorized to be funded and refunded into time warrants; providing that this law shall be cumulative of general laws on the subject of roads and bridges and on the subject of funding and refunding warrants, when not in conflict with the provisions hereof; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict, and declaring an emergency."

The Speaker laid the bill before the House with the Senate amendments.

On motion of Mr. Moffett, the House concurred in the Senate amendments by the following vote:

Yeas—116

Adkins	Lankford
Alexander	Lanning
Alsup	Leath
Amos	Leonard
Baker	Leyendecker
Bates	Little
Beckworth	Loggins
Boethel	London
Boyer	Lucas
Bradbury	Mann
Bridgers	Mays
Broadfoot	McConnell
Burton	McCracken
Cagle	McDonald
Callan	McFarland
Carssow	McKee
Cathey	Metcalfe
Cauthorn	Moffett
Cleveland	Monkhouse
Davis of Haskell	Morris
Davis of Jasper	Morse
Davison of Fisher	Newton
Deglandon	Nicholson
Derden	Oliver
Dickison	Palmer
Dollins	Patterson of Travis
Farmer	Pope
Fielden	Powell
Fuchs	Prescott
Gibson	Quinn
Graves	Reader
Hamilton	Reed of Dallas
Hankamer	Rhodes
Harbin	Riddle
Hardin	Roark
Harper	Ross
Harris of Archer	Russell
Harris of Dallas	Rutta
Harris of Dickens	Schuenemann
Heflin	Settle
Herzik	Sewell
Holland	Sharpe
Hoskins	Simpson
Huddleston	Smith of Hopkins
Hull	Skaggs
Hyder	Stinson
Jackson	Stocks
Johnson of Ellis	Talbert
Johnson of Tarrant	Tarwater
Jones of Angelina	Tennyson
Jones of Falls	Thornberry
Jones of Wise	Thornton
Keefe	Vale
Kelt	Waggoner
Kenyon	Walker
Kern	Weldon
Knetsch	Wood
Langdon	Worley

Absent

Bond	Brown
Bradford	Celaya
Davisson of Eastland	King
Dean	Mauritz
England	McKinney
Felty	Shell
Fox	Smith of Matagorda
Harrell	Smith of Tarrant
Howard	Stevenson
Jones of Atascosa	Westbrook
Keith	Winfree

Absent—Excused

Bell	Patterson of Mills
Blankenship	Petsch
Colquitt	Ragsdale
Hanna	Reed of Bowie
Hartzog	Tennant
James	

MESSAGE FROM THE SENATE

Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has adopted the following:

H. C. R. No. 48, Authorizing the Enrolling Clerk of the House to make certain corrections in House Bill No. 218.

Respectfully,
BOB BARKER,
Secretary of the Senate.

SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

Senate Bill No. 415, to the Committee on State Affairs.

HOUSE BILL NO. 67 ON SECOND READING

The Speaker laid before the House (as a special order for this hour), on its second reading and passage to engrossment,

H. B. No. 67, A bill to be entitled "An Act amending Section 1, Chapter 314, General Laws of the State of Texas, Forty-first Legislature, Regular Session, as amended by Chapter 24 of the General Laws of the Second Called Session thereof, and Chapter 227, Acts of the Regular Session of the Forty-second Legislature, 1931, so as to hereinafter provide that motor carriers and motor vehicles subject to

jurisdiction of the Railroad Commission shall be those operating for compensation and hire and providing that the term, 'compensation and hire' shall not include vehicles transporting goods owned by the owner of such vehicle."

The bill was read second time.

(Mr. Morse in the Chair.)

Mr. Knetsch offered the following committee amendment to the bill:

Amend House Bill No. 67, by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section 1. The Motor Carrier Act, being Chapter 277, Acts of the Regular Session of the Forty-second Legislature of the State of Texas, as heretofore amended, be, and the same is hereby further amended by adding thereto a new section to be known as "Section 26", and to read, as follows:

Sec. 26. A. The term 'motor carrier' as used in the said 'Motor Carrier Act' shall not include, and said Act shall not apply to a 'Private Commercial Carrier', as said term is hereinafter defined; and it is hereby declared that a Private Commercial Carrier is not transporting property for compensation or hire within the meaning and contemplation of said Act, and shall not be governed by any of the provisions of said Act applicable to a 'Motor Carrier' or 'Contract Carrier', or any regulations promulgated by the Commission in respect thereto, except as may be hereinafter specifically provided by this section.

B. A 'Private Commercial Carrier' is any person, firm, corporation, company, co-partnership, or association or joint stock association, and their receivers or trustees appointed by any court whatsoever, having a fixed and established place of business and regularly engaged in the transaction of business other than the business of transporting the property of others for compensation or hire, and which as an incident to the transaction of such business transports property of which such carrier is the bona fide owner over the highways of this State, where in the course of transportation a highway between two or more incorporated cities or towns is traversed, by means of a motor vehicle of which such carrier is the bona fide owner.

C. Every Private Commercial Carrier, before operating as such, shall obtain a permit from the Commission to engage in such business, and the Commission shall issue such permit upon the filing with it of an application in writing, and which written application shall set forth the following facts:

(1) The name and address of the applicant, and a statement showing whether such applicant is an individual, firm, corporation, company, co-partnership, or association, or joint stock company. If an individual, the postoffice address and principal office and place of business shall be given. If a corporation, company, co-partnership, or association, or joint stock company, the application shall state in detail the character thereof, and if a corporation, the State in which such corporation is chartered, the names of all officers of the corporation, and all members of any firm, co-partnership, association or joint stock company, the officers thereof, and the principal office and place of business of the applicant.

(2) The application shall set forth the nature of the business in which the applicant is engaged, the length of time in which it has engaged in such business, the places where it has engaged in such business during the year next prior to the filing of said application, and the amount of capital employed in said business, other than capital invested in motor vehicles.

(3) The application shall give a description of each vehicle which the applicant intends to use, including weight and size of vehicle and the manufacturers rated carrying capacity, and shall state that applicant is the bona fide owner thereof.

(4) Said application shall state that the applicant is not a 'Motor Carrier', and does not hold a permit or certificate under the provisions of law applicable to 'Contract Carriers' or 'Common Carriers'; and that none of the motor vehicles described in the application are operated under any such permit or certificate.

(5) Said application shall be verified by affidavit of the applicant, or by an officer of the applicant, if said application be a corporation, or by a member of the firm, co-partnership, or association or joint stock company, if said applicant be neither an in-

dividual nor a corporation; which affidavit shall be made before an officer authorized to administer oaths under the laws of the State of Texas, and shall state that the facts set forth in the application are within the knowledge of the affiant, and that each such fact is true.

The filing of an application as herein provided, and payment of the fee herein stipulated, shall, as of right, entitle the applicant to a permit, and it shall thereupon be the duty of the Commission, without further requirement, to grant a permit to the applicant.

Upon the filing of each application, and before a permit is granted, the applicant shall pay to the Commission a filing fee of Five ($5.00) Dollars.

D. It shall be unlawful for any Private Commercial Carrier as hereinbefore defined to engage in business as such without a permit.

(1) The Commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle operated under such permit, setting out the permit number and giving the name and address of the owner of said permit and character of business in which such owner is engaged. It shall be unlawful for the owner of said permit, his agent, servant, or employee, or any other person to use or display said identification card after said certificate or permit has been cancelled or disposed of.

(2) It shall be unlawful for any Private Commercial Carrier as hereinbefore defined to engage in business as such unless there shall be displayed and firmly fixed upon the front and rear of each vehicle used in such business an identification plate to be furnished by the Commission. Each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this law; said plate shall bear the number given to the vehicle by the Commission, and such other marks of identification as may be necessary, and shall be different in design from the plates provided for a motor carrier. The identification plates provided for herein shall be attached in addition to the regular license plates provided by law. It shall be the duty of the Commission to provide these plates, and each motor vehicle operated by a Private Commercial Carrier, as herein defined, shall display such plates as soon as the same are received, and such plates shall be issued annually thereafter and attached to each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of Two ($2.00) Dollars for each pair of plates so issued.

(3) All fees paid to the Commission under the provisions of this Act shall be deposited in the State Treasury to the credit of the "Motor Carrier Fund".

E. Before any Private Commercial Carrier may lawfully operate under the permit herein provided, such Private Commercial Carrier shall file with the Commission bonds or insurance policies as provided by Section 13 of said Motor Carrier Law, and shall comply with the provisions of such section in respect to insurance, except for the carrying of cargo insurance; but it shall not be necessary for such Private Commercial Carrier to file any policies of insurance taken out under the Workmen's Compensation Law of the State of Texas; and each driver of a motor vehicle operated under any permit granted under the terms of this Act shall have a driver's license, which shall be issued by the Commission pursuant to an examination testing the ability and fitness of the applicant, and under such rules and regulations as the Commission may prescribe; provided that every driver aforesaid shall acquire a driver's license within thirty days after this Act takes effect and shall annually thereafter on or before the anniversary of the date of the original license acquire r e n e w a l thereof. Such license shall be issued for a term of one year. The Commission is empowered further to issue temporary licenses, in case of emergency, for such term as the Commission may deem expedient; provided such term shall not exceed ten days, and there shall be no right or privilege of renewal thereof. The Commission is hereby authorized to collect a fee of One ($1.00) Dollar for each annual license fee or renewal. The Commission may suspend or revoke any such license for cause after notice and public hearing. It shall be unlawful for any Private Commercial Carrier to operate a motor propelled vehicle in this State unless such vehicle is op-

erated by a driver holding an unrevoked and uncancelled license issued by the Commission.

F. In the event any person, firm, corporation, company, co-partnership, or association or joint stock company holding a permit as a Private Commercial Carrier under this law shall violate any of the provisions hereof, or shall have made any false statement in the application for such permit, or shall engage, directly or indirectly, in the business of transporting the property of others for compensation or hire, or fails or refuses to comply with any of the provisions of this Act, the permit shall be cancelled by the Commission. Before any such permit is cancelled, the holder thereof shall be given a hearing, having first been given ten days' written notice of the time and place of such hearing, and which hearing shall be conducted as provided for other hearings held under the terms of said Motor Carrier Law, and from the decision at such hearing an appeal may be had as provided in said law for appeals from other hearings provided therein.

G. (1) Any person, or any member of any firm, co-partnership, or association, or any officer of any corporation violating any provision of this Act shall be guilty of an offense, and upon conviction thereof shall be punished by a fine not exceeding the sum of Two Hundred ($200.00) Dollars.

(2) Any Private Commercial Carrier, who shall engage in the business of transporting the property of others for compensation or hire, or who shall transport any property in a motor vehicle over the highways of this State, without having a fixed and established place of business, and without being regularly engaged in the transaction of business other than the business of transporting the property of others for compensation or hire, and without being the bona fide owner of such property and of such motor vehicle, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding the sum of Two Hundred ($200.00) Dollars.

(3) Any person making any false statement in any application for a permit under this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Two Hundred ($200.00).

Section Two. It is hereby declared to be the Legislative intent that a Private Commercial Carrier, as herein defined, is not transporting property for compensation or hire within the contemplation of Section 1(g) of said Chapter 277, Acts of the Regular Session of the Forty-second Legislature of Texas, as amended, and that the conditions of the highways of this State and proper regulation of traffic over said highways, and the safety of the public generally does not require that the same regulations prescribed in said Act with respect to "Motor Carriers", as that term is therein defined, should be made applicable to Private Commercial Carriers as herein defined.

If any section, subsection, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional, invalid or unenforceable, such holding shall not affect the validity or enforceability of the remaining portions of this Act; and the Legislature hereby declares that it is the purpose hereof to relieve Private Commercial Carriers as herein defined from the provisions and operations of said Motor Carrier Law as incorporated in said Chapter 277, Acts of the Regular Session of the Forty-second Legislature, and amendments thereof, and that the provisions hereof to that effect would have been enacted notwithstanding any other section, subsection, sentence, clause or phrase hereof be declared unconstitutional.

Sec. 3. The fact that recent court decisions have construed the definition of 'motor carrier', as it exists in the present law, to include operators of motor vehicles whose principal business is not the transportation of property of others for compensation or hire, and the inclusion thereof under the regulations prescribed by the present law is not necessary or desirable for the proper regulation of traffic on the public highways or the safety of the traveling public, but works an undue hardship on those not engaged in the business of transporting the property of others for compensation or hire, and on the public generally, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and such Rule is hereby suspended, and that this Act shall take effect and be in force and

after its passage, and it is so enacted."

DAVISON of Fisher.

Mr. Settle offered the following amendment to the committee amendment:

Amend committee amendment, by adding to Section B of Section 1 a new section to be known as Subsection 1 to read, as follows:

"Subsection 1. Provided, further that the term 'motor carrier' and the term 'private commercial carrier' shall not be held to include any person transporting his own agricultural products, livestock, farm implements, feedstuffs, supplies, or household goods, in any such motor vehicle owned by such person and that the provisions as to routes and rates shall not apply to any person defined herein as a private commercial carrier. Provided, further that a bona fide consignee or agent who owns his motor vehicle and who transports therein property of his consignor or principal, incident to his primary duty to sell or deliver such property, shall, for the purpose of this section, be deemed the owner of such property."

SETTLE,
MANN,
ALEXANDER.

The amendment was adopted.

Mr. Settle offered the following amendment to the committee amendment:

Amend committee amendment, Section G., page 5, line 27, by striking out Subdivision 2 and insert in lieu thereof the following:

"Any private commercial carrier who shall engage in the business of transporting property of others, except that of his bona fide consignor or principal, for compensation or hire, or who shall transport any property in a motor vehicle over the highways of this State, without having a fixed and established place of business, and without being regularly engaged in the transaction of business other than the business of transporting the property of others for compensation or hire, and who is not the bona fide owner, as defined in subdivision B of this Act, of such property and the bona fide owner of such motor vehicle, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding the sum of Five Hundred ($500.00) Dollars and revocation of his private commercial carrier's permit for one year from the date of conviction."

Mr. Hardin moved to table the amendment.

The motion to table was lost.

Question recurring on the amendment, it was adopted.

Mr. Bond offered the following amendment to the committee amendment:

Amend committee amendment, paragraph three, subsection (5) under subsection (c), Section One, to read as follows:

"Upon the filing of each application, and before a permit is granted, the applicant shall pay to the Commission the filing fee of Ten ($10.00) Dollars."

Mr. Jones of Wise offered the following substitute for the amendment by Mr. Bond:

Amend committee amendment to House Bill No. 67, by striking out, on page 3, lines 17, 18 and 19.

JONES of Wise,
SMITH of Hopkins.

Question recurring on the substitute amendment, yeas and nays were demanded.

The substitute amendment was adopted by the following vote:

Yeas—104

Adkins	Fielden
Alsup	Fuchs
Baker	Gibson
Bates	Graves
Beckworth	Hankamer
Boethel	Harbin
Boyer	Hardin
Bradbury	Harper
Bridgers	Harrell
Broadfoot	Harris of Archer
Brown	Harris of Dallas
Cagle	Harris of Dickens
Carssow	Herzik
Cathey	Hoskins
Cauthorn	Howard
Cleveland	Huddleston
Davis of Haskell	Hull
Davis of Jasper	Hyder
Davison of Fisher	Jackson
Davisson of Eastland	Johnson of Ellis
Dean	Jones of Angelina
Deglandon	Jones of Atascosa
Derden	Jones of Wise
Dollins	Keefe
England	Kern
Farmer	King
Felty	Knetsch
	Langdon

Lankford	Prescott
Lanning	Reader
Leath	Rhodes
Leonard	Roark
Loggins	Ross
London	Russell
Lucas	Rutta
Mann	Schuenemann
Mauritz	Settle
Mays	Sewell
McConnell	Sharpe
McDonald	Shell
McFarland	Simpson
McKee	Skaggs
McKinney	Smith of Hopkins
Metcalfe	Smith of Tarrant
Moffett	Stevenson
Monkhouse	Talbert
Newton	Tarwater
Oliver	Vale
Palmer	Walker
Patterson of Travis	Weldon
Pope	Westbrook
Powell	Wood
	Worley

Nays—19

Bond	Kenyon
Burton	Leyendecker
Callan	Morris
Fox	Reed of Dallas
Hamilton	Smith of Matagorda
Heflin	Stocks
Holland	Thornberry
Johnson of Tarrant	Thornton
Jones of Falls	Waggoner
Keith	

Absent

Alexander	Morse
Amos	Nicholson
Bradford	Quinn
Celava	Riddle
Dickison	Stinson
Kelt	Tennyson
Little	Winfree
McCracken	

Absent—Excused

Bell	Patterson of Mills
Blankenship	Petsch
Colquitt	Ragsdale
Hanna	Reed of Bowie
Hartzog	Tennant
James	

The amendment, as substituted, was then adopted.

Mr. Bond offered the following amendment to the committee amendment:

Amend committee amendment, line 4, Subsection F, Section One, by striking out the words "have made" and inserting the word "make".

The amendment was adopted.

Mr. Harris of Dallas offered the following amendments to the committee amendment:

Amend committee amendment, by changing the words and figures "Two Hundred ($200.00) Dollars" wherever they appear in Section 26, subsection "G" (1) and insert in lieu thereof the following: "Five Hundred ($500.00) Dollars and the revocation of his private carriers permit for one year from the date of conviction".

Amend committee amendment, by changing the figures and words "Two Hundred ($200.00) Dollars", wherever they appear in Section 26, Subsection G (2) and insert in lieu thereof the following: "Five Hundred ($500.00) Dollars and the revocation of his private carrier's permit for the period of one year from the date of conviction".

Amend committee amendment, by changing the figures and words "Two Hundred ($200.00) Dollars", wherever they appear in Section 26, Subsection G (3) and insert in lieu thereof the following: "Five Hundred ($500.00) Dollars and the revocation of his private carrier's permit for the period of one year from the date of conviction".

The amendments were severally adopted.

Mr. Bond offered the following amendment to the committee amendment:

Amend committee amendment, line three under Subdivision (1), Subsection (G), by adding the word "deemed" between the words "be" and "guilty", and striking out the words "an offense" and inserting the words "a misdemeanor".

The amendment was adopted.

Mr. Lucas offered the following amendment to the committee amendment:

Amend committee amendment to House Bill No. 67, page 4, Section 1, Subsection E, by striking out all of lines 16 to 24 inclusive, inserting in lieu thereof the following: "E. Each".

LUCAS,
CATHEY.

(Speaker in the Chair.)

On motion of Mr. Thornton, the amendment by Mr. Lucas, was tabled.

Mr. McConnell offered the following amendment to the committee amendment:

Amend the committee amendment, by adding after the word "livestock" in line 4, Subsection 1, the following: "fire wood, cedar posts, or other wood posts".

The amendment was adopted.

Mr. Jones of Wise offered the following amendment to the committee amendment:

Amend committee amendment, Section 1, Subsection E, by adding a new section to be known as Subsection 1 to read as follows:

"Provided further, that the provisions of this Act and the Motor Carrier Act as to insurance shall not apply to any person transporting his own agricultural products, livestock, farm implements, feedstuffs, supplies and household goods as provided in Section 3 herein."

The amendment was adopted.

The committee amendment, as amended, was then adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 67 was then passed to engrossment.

HOUSE BILL NO. 67 ON THIRD READING

Mr. Knetsch moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 67 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—126

Adkins
Alexander
Alsup
Amos
Bates
Beckworth
Boethel
Bond
Boyer
Bradbury
Bradford
Bridgers
Broadfoot
Brown
Burton
Cagle
Callan
Carssow
Cathey
Cauthorn
Celaya
Cleveland
Davis of Jasper
Davison of Fisher
Davisson of Eastland
Deglandon
Derden
Dickison
Dollins
England
Felty
Fielden
Fox
Fuchs
Gibson
Hamilton
Hankamer
Hardin
Harrell
Harris of Archer
Harris of Dallas
Harris of Dickens
Heflin
Herzik
Holland
Hoskins
Huddleston
Hull
Hyder
Jackson
Johnson of Ellis
Johnson of Tarrant
Jones of Angelina
Jones of Atascosa
Jones of Falls
Jones of Wise
Keefe
Keith
Kelt
Kern
King
Knetsch
Langdon
Lankford
Lanning
Leath
Leonard
Leyendecker
Little
Loggins
London
Lucas
Mann
Mauritz
Mays
McConnell
McDonald
McFarland
McKee
McKinney
Metcalfe
Moffett
Monkhouse
Morris
Morse
Newton
Nicholson
Oliver
Palmer
Patterson of Travis
Pope
Powell
Prescott
Quinn
Reed of Dallas
Rhodes
Riddle
Roark
Ross
Russell
Rutta
Schuenemann
Settle
Sewell
Sharpe
Shell
Simpson
Skaggs
Smith of Matagorda
Smith of Tarrant
Stevenson
Stinson
Stocks
Talbert
Tarwater
Tennyson
Thornberry
Thornton
Vale
Waggoner
Walker
Weldon
Westbrook
Winfree
Wood
Worley

Nays—3

Davis of Haskell
Farmer
Graves

Absent

Baker
Dean
Harbin
Harper
Howard
Kenyon
McCracken
Reader
Smith of Hopkins

Absent—Excused

Bell
Blankenship
Colquitt
Hanna
Hartzog
James

Patterson of Mills
Petsch
Ragsdale
Reed of Bowie
Tennant

The Speaker then laid House Bill No. 67 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—130

Adkins
Alexander
Alsup
Amos
Bates
Beckworth
Boethel
Boyer
Bradbury
Bradford
Bridgers
Broadfoot
Brown
Burton
Cagle
Callan
Carssow
Cathey
Cauthorn
Celaya
Cleveland
Davis of Haskell
Davis of Jasper
Davison of Fisher
Davisson of Eastland
Deglandon
Derden
Dickison
Dollins
England
Felty
Fielden
Fox
Fuchs
Gibson
Hamilton
Hankamer
Harbin
Hardin
Harper
Harrell
Harris of Archer
Harris of Dallas
Harris of Dickens
Heflin
Herzik
Holland
Hoskins
Howard
Huddleston
Hull
Hyder
Jackson
Johnson of Ellis
Johnson of Tarrant
Jones of Angelina
Jones of Atascosa
Jones of Falls
Jones of Wise
Keefe
Keith
Kelt
Kern
King
Knetsch
Langdon
Lankford
Lanning
Leath
Leonard
Leyendecker
Little
Loggins
London
Lucas
Mann
Mauritz
Mays
McConnell
McCracken
McDonald
McFarland
McKee
McKinney
Metcalfe
Moffett
Monkhouse
Morris
Morse
Newton
Nicholson
Oliver
Patterson of Travis
Pope
Powell
Prescott
Quinn
Reed of Dallas
Rhodes
Riddle
Roark
Ross
Russell
Rutta
Schuenemann
Settle
Sewell
Sharpe
Shell
Simpson
Skaggs
Smith of Hopkins
Smith of Matagorda
Smith of Tarrant
Stevenson
Stinson
Stocks
Talbert
Tarwater
Tennyson
Thornberry
Thornton
Vale
Waggoner
Walker
Weldon
Westbrook
Winfree
Wood
Worley

Nays—2

Farmer
Graves

Absent

Baker
Bond
Dean
Kenyon
Palmer
Reader

Absent—Excused

Bell
Blankenship
Colquitt
Hanna
Hartzog
James
Patterson of Mills
Petsch
Ragsdale
Reed of Bowie
Tennant

REASON FOR VOTE

The record shows that I voted against House Bill 67. I did so because the bill, as finally passed, provides that a private commercial carrier shall file with the commission a bond or insurance policy. The poor men who haul the farm products to market, such as watermelons, potatoes and tomatoes and other things from the farm will have to provide this insurance. The bill strictly provides that this shall not apply to those hauling "their own" agricultural products and so forth. The phrase "his own" applies solely to the producer and will be so construed by the courts.

By this method we are further striking down, in Texas, a large number of honest working men who are making a living and we will force them to join the army of the unemployed. I am viciously opposed to any such legislation.

To that part of the bill which provides that our merchants and manufacturers shall use the highways for the transportation of their goods, I was in hearty accord, but I cannot bring myself to support any bill that strikes at the interests of the common

people, and gives to monopoly and other interests special privileges.

Again, I will add, as I said of the "Chain Store Tax", that my only measure of satisfaction would be that I did my duty, and with Cassandra of Grecian fame I will have the satisfaction of saying, "I told you so".

FARMER.

MESSAGE FROM THE SENATE

Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

H. B. No. 972, A bill to be entitled "An Act making an appropriation of the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Forty-fifth Legislature, and to pay any unpaid accounts of the Third Called Session of the Forty-fourth Legislature, and declaring an emergency."

Respectfully,

BOB BARKER,
Secretary of the Senate.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

H. B. No. 218, "An Act to amend House Bill No. 423, Acts of the Forty-fourth Legislature, Regular Session, by providing that Limestone, Robertson and Milam Counties be excepted from the provisions of said bill, and declaring an emergency."

H. B. No. 972, "An Act making an appropriation of the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Forty-fifth Legislature, and to pay any unpaid accounts of the Third Called Session of the Forty-fourth Legislature, and declaring an emergency."

H. C. R. No. 48, Authorizing certain correction in House Bill No. 218.

S. C. R. No. 42, Granting Judge R. T. Brown permission to be absent from the State.

SPECIAL ORDER SET

Mr. Moffett moved that House Bill No. 81 be set as a special order for 10:00 o'clock a. m., Tuesday, March 9.

The motion prevailed.

HOUSE BILL NO. 399 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 399, A bill to be entitled "An Act amending Article 982, Revised Civil Statutes of Texas, 1925, providing that in counties containing a population not less than 160,000 nor more than 200,000 according to the last preceding census, the City Council shall tabulate the returns from the Aldermanic Election and if no candidate has received a majority of the total votes cast for all candidates in such ward, the Council shall immediately call a second election at which time the names of the two candidates receiving the highest number of votes in each ward shall be submitted to the voters of each such ward; providing the time for such election; providing that the election shall be ordered and the election officers and supervisors appointed as provided in Article 2951; providing that the Council shall tabulate the returns of such election and shall declare the person elected who shall receive the highest number of votes, and declaring an emergency."

The bill having been read second time on yesterday.

Question—Shall House Bill No. 399 pass to engrossment?

SENATE BILL NO. 415 ON SECOND READING

On motion of Mr. Farmer, Senate Bill No. 415 was ordered not printed.

On motion of Mr. Farmer, the House Rule, governing the regular order of business, at this time, was suspended, for the purpose of taking

up and considering Senate Bill No. 415.

Mr. Farmer moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 415 be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—123

Adkins	Hyder
Alexander	Jackson
Alsup	Johnson of Ellis
Amos	Johnson of Tarrant
Baker	Jones of Angelina
Bates	Jones of Atascosa
Beckworth	Jones of Falls
Boethel	Jones of Wise
Bond	Keefe
Boyer	Keith
Bradbury	Kelt
Bradford	Kern
Broadfoot	King
Burton	Knetsch
Cagle	Langdon
Callan	Lankford
Carssow	Lanning
Cathey	Leyendecker
Cauthorn	Little
Celaya	Loggins
Cleveland	London
Davis of Haskell	Lucas
Davis of Jasper	Mann
Davison of Fisher	Mauritz
Davisson of Eastland	Mays
Deglandon	McConnell
Derden	McDonald
Dickison	McFarland
Dollins	McKee
England	McKinney
Farmer	Metcalfe
Felty	Moffett
Fielden	Monkhouse
Fox	Morris
Fuchs	Morse
Gibson	Newton
Graves	Oliver
Hamilton	Palmer
Hankamer	Patterson of Travis
Harbin	Pope
Hardin	Powell
Harper	Prescott
Harrell	Reed of Dallas
Harris of Archer	Rhodes
Harris of Dallas	Roark
Harris of Dickens	Ross
Heflin	Russell
Holland	Rutta
Hoskins	Schuenemann
Huddleston	Settle
Sewell	Tarwater
Sharpe	Tennyson
Shell	Thornberry
Simpson	Thornton
Skaggs	Vale
Smith of Hopkins	Waggoner
Smith of Matagorda	Walker
Stevenson	Weldon
Stinson	Westbrook
Stocks	Winfree
Talbert	Wood
	Worley

Absent

Bridgers	Leonard
Brown	McCracken
Dean	Nicholson
Herzik	Quinn
Howard	Reader
Hull	Riddle
Kenyon	Smith of Tarrant
Leath	

Absent—Excused

Bell	Patterson of Mills
Blankenship	Petsch
Colquitt	Ragsdale
Hanna	Reed of Bowie
Hartzog	Tennant
James	

The Speaker then laid before the House, on its second reading and passage to third reading,

S. B. No. 415, A bill to be entitled "An Act amending Subsection (b) of Section 11, of Article 2, of H. B. No. 8, passed by the Third Called Session of the Forty-fourth Legislature, said bill being known as the 'Omnibus Tax Bill', and declaring an emergency."

The bill was read second time, and was passed to third reading.

SENATE BILL NO. 415 ON THIRD READING

The Speaker then laid Senate Bill No. 415 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—127

Adkins	Bond
Alexander	Boyer
Alsup	Bradbury
Amos	Bradford
Baker	Bridgers
Bates	Broadfoot
Beckworth	Brown
Boethel	Burton

Cagle
Callan
Carssow
Cathey
Cauthorn
Celaya
Cleveland
Davis of Haskell
Davis of Jasper
Davison of Fisher
Davisson of Eastland
Deglandon
Derden
Dollins
England
Farmer
Felty
Fielden
Fox
Fuchs
Gibson
Graves
Hamilton
Hankamer
Harbin
Hardin
Harper
Harrell
Harris of Archer
Harris of Dallas
Harris of Dickens
Heflin
Holland
Hoskins
Huddleston
Hull
Hyder
Jackson
Johnson of Ellis
Johnson of Tarrant
Jones of Angelina
Jones of Atascosa
Jones of Falls
Jones of Wise
Keefe
Keith
Kelt
Kern
Knetsch
Langdon
Lankford
Lanning
Leath
Leonard
Leyendecker
Little
Loggins
London
Lucas
Mann
Mauritz
Mays
McConnell
McCracken
McDonald
McFarland
McKee
McKinney
Metcalfe
Moffett
Monkhouse
Morris
Morse
Newton
Oliver
Palmer
Patterson of Travis
Pope
Powell
Prescott
Reed of Dallas
Rhodes
Roark
Ross
Russell
Rutta
Schuenemann
Settle
Sewell
Sharpe
Shell
Simpson
Skaggs
Smith of Matagorda
Smith of Tarrant
Stevenson
Stinson
Stocks
Talbert
Tarwater
Tennyson
Thornberry
Thornton
Vale
Waggoner
Walker
Weldon
Westbrook
Winfree
Wood
Worley

Absent

Dean
Dickison
Herzik
Howard
Kenyon
King
Nicholson
Quinn
Reader
Riddle
Smith of Hopkins

Absent—Excused

Bell
Blankenship
Colquitt
Hanna
Hartzog
James
Patterson of Mills
Petsch
Ragsdale
Reed of Bowie
Tennant

Mr. Bond moved to reconsider the vote by which Senate Bill No. 415 was passed, and to table the motion to reconsider.

The motion to table prevailed.

EXTENDING SYMPATHY TO HONORABLE RAWLINS COLQUITT

Mr. Newton offered the following resolution:

Whereas, Our fellow Member, the Honorable Rawlins M. Colquitt is sick in the St. David's Hospital; and

Whereas, We deeply regret his illness and inability to be present for the past few days; now, therefore, be it

Resolved by the House of Representatives, That we extend to Mr. Colquitt our sincere sympathy and wish for him a speedy recovery; and, be it further

Resolved, That the Chief Clerk of the House be instructed to send suitable flowers to our colleague; and, be it further

Resolved, That a copy of this resolution be forwarded, by the Chief Clerk, to Mr. Colquitt.

NEWTON,
TALBERT,
BLANKENSHIP,
HARRIS of Dallas,
HANNA,
McKINNEY,
HARPER,
REED of Dallas,
STINSON.

The resolution was read second time, and was adopted.

ADDRESS BY PRESIDENT FRANKLIN DELANO ROOSEVELT

On motion of Mr. Davis of Haskell, the following address of President Franklin Delano Roosevelt, as delivered on March 4, 1937, was ordered printed in the Journal:

WASHINGTON, March 4.—Following is the text of President Roosevelt's speech at the Victory dinner:

"On the fourth of March, 1937, in millions of homes the thoughts of American families are reverting to the March 4 of another year. That day in 1933 represented the death of one era and the birth of another.

At that time we faced and met a grave national crisis. Now we face another crisis—of a different kind, but fundamentally even more grave than that of four years ago.

Tonight I want to begin with you a discussion of that crisis.

I shall continue that discussion on Tuesday night in a nation wide broadcast and thereafter, from time to time, as may be necessary. For I propose to follow my custom of speaking frankly to the nation concerning our common problems.

I speak at this Victory Dinner not only as the head of the Democratic Party, but as the representative of all Americans who have faith in political and economic democracy.

Our victory was not sectional. It did not come from compromises and bargains. It was the voice of 27,000,000 voters—from every part of the land.

The Democratic party, once a minority party, is today the majority party by the greatest majority any party ever had.

It will remain the majority party so long as it continues to justify the faith of millions who had almost lost faith—so long as it continues to make modern democracy work—so long and no longer. We are celebrating the 1936 victory. That was not a final victory. It was a victory whereby our party won further opportunity to lead in the solution of the pressing problems that perplex our generation. Whether we shall celebrate in 1938, 1940, and in 1944, as we celebrate tonight, will deservedly depend upon whether the party continues on its course and solves those problems.

And if I have aught to say it will continue on its course and it will solve those problems.

After election day in 1936, some of our supporters were uneasy lest we grasp the excuse of a false era of good feeling to evade our obligations. They were worried by the evil symptom that the propaganda and the epithets of last summer and fall had died down.

Today, however, those who placed their confidence in us are reassured. For the tumult and the shouting have broken forth anew—and from substantially the same elements of opposition. This new roar is the best evidence in the world that we have begun to keep our promises, that we have begun to move against conditions under which one-third of this nation is still ill-nourished, ill-clad, ill-housed.

We gave warning last November that we had only just begun to fight. Did some people really believe we did not mean it? Well—I meant it, and you meant it.

A few days ago, a distinguished member of the Congress came to see me to talk about national problems of the judiciary in particular.

I said to him:

"John, I want to tell you something that is very personal to me—something that you have a right to hear from my own lips. I have a great ambition in life."

My friend pricked up his ears.

I went on: "I am by no means satisfied with having twice been elected President of the United States by very large majorities. I have an even greater ambition."

By this time, my friend was sitting on the edge of his chair.

I continued: "John, my ambition relates to January 20, 1941." I could feel just what horrid thoughts my friend was thinking. So in order to relieve his anxiety, I went on to say: "My great ambition on Jan. 20, 1941, is to turn over this desk and chair in the White House to my successor, whoever he may be, with the assurance that I am at the same time turning over to him as President, a nation intact, a nation at peace, a nation prosperous, a nation clear of its knowledge of what powers it has to serve its own citizens, a nation that is in a position to use those powers to the full in order to move forward steadily to meet the modern needs of humanity—a nation which has thus proved that the democratic form and methods of national government can and will succeed.

"In these coming years I want to provide such assurance. I want to get the nation as far along the road of progress as I can, I do not want to leave it to my successor in the condition in which Buchanan left it to Lincoln."

My friends, that ambition of mine for my successor can well be the serious ambition of every citizen who wants his United States to be handed

down intact to his children and grandchildren.

I spoke in the dead earnestness of anxiety, I speak to you tonight in the same earnestness. For no one who sees as a whole today's picture of this nation and the world can help but feel concern for the future.

To the President of the United States there come every day thousands of messages of appeal, of protest, of information and advice, messages from rich and poor, from business man and farmer, from factory employe and relief worker, messages from every corner of our wide domain.

Those messages reflect the most striking feature of the life of this generation—the feature which men who live mentally in another generation can least understand—the ever-accelerating speed with which social forces now gather headway.

The issue of slavery, for example, took at least 40 years—two generations—of argument, discussion and futile compromise, before it came to a head in the tragic war between the states.

But economic freedom for the wage earner and the farmer and the small business man will not wait, like emancipation, for 40 years. It will not wait for four years. It will not wait at all.

After the World War, there arose everywhere insistent demands upon government that human needs be met. The unthinking, or those who dwell in the past, have tried to block them. The wise who live in the present have recognized their innate justice and irresistible pressure—and have sought to guide them.

In some countries, a royalist form of government failed to meet these demands—and fell. In other countries, a parliamentary form of government failed to meet these demands—and fell. In still other countries, governments have managed to hold on, but civil strife has flared or threats of upheavel persist.

Democracy in many lands has failed for the time being to meet human needs. People have become so fed up with futile debate and party bickerings over methods that they have been willing to surrender democratic processes and principles in order to get things done. They have forgotten the lessons of history that the ultimate failures of dictatorships cost humanity far more than any temporary failures of democracy.

In the United States democracy has not yet failed and does not need to fail. And we propose not to let it fail!

Nevertheless, I cannot tell you with complete candor that in these past few years democracy in the United States has fully succeeded. Nor can I tell you, under present circumstances, just where American democracy is headed nor just what it is permitted to do in order to insure its continued success and survival. I can only hope.

For as yet there is no definite assurance that the three-horse team of the American system of government will pull together. If three well-matched horses are put to the task of plowing up a field where the going is heavy, and the team of three pull as one, the field will be plowed. If one horse lies down in the traces or plunges off in another direction, the field will not be plowed.

What you and I call the principles of the New Deal did not originate on the fourth of March, 1933. We think of that date as their beginning, because it was not until then that the social demands they represented broke through the inertia of many years of failure to improve our political and economic processes.

What were those demands and needs? How far did we succeed in meeting them? What about them today?

Ever since the World War the farmers of America had been beating off ever-mounting disasters. This administration tried to help them effectively where no other administration had dared to take that risk.

The Agricultural Adjustment Act testified to our full faith and confidence that the very nature of our major crops makes them articles of commerce between the states.

The AAA testified also to our full faith and confidence that the preservation of sound agriculture is essential to the general welfare—that the Congress of the United States had full constitutional authority to solve the national economic problems of the nations agriculture. By overwhelming votes, the Congress thought so too!

You know who assumed the power to veto, and did veto that program.

In the campaign of 1936, I said: "Of course we will continue our efforts in behalf of the farmers of America. With their continued cooperation we will do all in our power to end the piling up of huge surpluses

which spelled ruinous prices for their crops. We will persist in successful action for better land use, for reforestation, for better marketing facilities for farm commodities, for a definite reduction of farm tenancy, for encouragement of farmer cooperatives, for crop insurance and a stable food supply. For all these things we have only just begun to fight."

Neither individually nor as a party can we postpone and run from that fight on advice of defeatist lawyers. But I defy anyone to read the majority opinion invalidating the AAA and tell us what we can do for agriculture in this session of the Congress with any reasonable certainty that what we do will not be nullified as unconstitutional.

The farmers were not the only people in distress in 1932. There were millions of workers in industry and in commerce who had lost their jobs, young people who had never been able to find their first job, and more millions whose jobs did not return them and their families enough to live on decently.

The democratic administration and the Congress made a gallant, sincere effort to raise wages, to reduce hours, to abolish child labor, to eliminate unfair trade practices.

We tried to establish machinery to adjust the relations between the employer and employee.

And what happened?

You know who assumed the power to veto, and did veto that program.

The railroad retirement act, the national recovery act and the Guffey coal act were successively outlawed as the child labor statute had been outlawed 20 years before.

Soon thereafter the nation was told by a judicial pronunciamento that although the Federal Government had thus been rendered powerless to touch the problem of hours and wages, the states were equally helpless; and that it pleased the "personal economic predilections" of a majority of the court that we live in a nation where there is no legal power anywhere to deal with its most difficult practical problems—a no man's land of final futility.

Furthermore, court injunctions have paralyzed the machinery which we created by the national labor relations act to settle great disputes raging in the industrial field, and, indeed, to prevent them from ever arising. We hope that this act may yet escape final condemnation in the highest court. But so far the attitude and language of the courts in relation to many other laws have made the legality of this act also uncertain, and have encouraged corporations to defy rather than obey it.

In the campaign of 1936, you and I promised this to working men and women:

"Of course we will continue to seek to improve working conditions for the workers of America—to reduce hours over-long, to increase wages that spell starvation, to end the labor of children, to wipe out sweatshops. We will provide useful work for the needy unemployed. For all these things we have only just begun to fight."

And here again we cannot afford, either individually or as a party, to postpone or run from that fight on advice of defeatist lawyers.

But I defy anyone to read the opinions concerning AAA, the railroad retirement act, the national recovery act, the Guffey coal act and the New York minimum wage law, and tell us exactly what, if anything, we can do for the industrial worker in this session of the Congress with any reasonable certainty that what we do will not be nullified as unconstitutional.

During the course of the past four years the Nation has been overwhelmed by disasters of flood and drouth.

Modern science knows how to protect our land and our people from the recurrence of such catastrophes, and knows how to produce as a by-product the blessing of cheaper electric power. With the Tennessee Valley Authority we made a beginning of that kind of protection on an intelligent regional basis. With only two of its nine projected dams completed there was no flood damage in the valley of the Tennessee this winter.

But how can we confidently complete that Tennessee Valley project or extend the idea to the Ohio and other valleys while the lowest courts have not hesitated to paralyze its operations by sweeping injunctions?

The Ohio River and the dust bowl are not conversant with the habits of the interstate commerce law. But we shall never be safe in our lives,

in our prosperity or in the heritage of our soil until we have somehow made the interstate commerce clause conversant with the habits of the Ohio River and the dust bowl.

In the campaign of 1936, you and I and all who supported us did take cognizance of the Ohio River and the dust bowl. We said: "Of course we will continue our efforts for drouth and flood control. For these things we have just begun to fight."

Here, too, we cannot afford, either individually or as a party, to postpone or run away from that fight on advice of defeatist lawyers. Let them try that advice on sweating men piling sandbags on the levees at Cairo.

But I defy anyone to read the opinions in the TVA case, Duke Power case and AAA case, and tell us exactly what we can do as a national government in this session of the Congress to control flood and drouth and generate cheaper power with any reasonable certainty that what we do will not be nullified as unconstitutional.

The language of the decisions already rendered and the widespread refusal to obey law incited by the attitude of the courts, create doubts and difficulties for almost everything else for which we have promised to fight—help for the crippled, for the blind, for the mothers—insurance for the unemployed—security for the aged—protection for the investor—the wiping out of slums—cheaper electricity for the homes and on the farms of America. You and I owe it to ourselves individually, as a party, and as a nation to remove those doubts and difficulties.

In this fight, as the lawyers themselves say, time is of the essence. In three elections during the past five years great majorities have approved what we are trying to do. To me, and I am sure to you, those majorities mean that the people themselves realize the increasing urgency that we meet their needs now. Every delay creates risks of intervening events which make more and more difficult an intelligent, speedy and democratic solution of our difficulties.

As Chief Executive and as the head of the Democratic party, I am unwilling to take those risks—to the contrary and to the party—of postponing one moment beyond absolute necessity the time when we can free from legal doubt those policies which offer a progressive solution of our problems.

Floods and drouth and agricultural surpluses, strikes and industrial confusion and disorder, cannot be handled forever on a catch-as-catch-can basis.

I have another ambition—not so great an ambition as that which I have for the country, but an ambition which as a lifelong Democrat I do not believe unworthy. It is an ambition for the Democratic party.

The party, and its associates, have had the imagination to perceive essential unity below the surface of apparent diversity. We can, therefore, long remain a natural rallying point for the co-operative effort of all of those who truly believe in political and economic democracy.

It will take courage to let our minds be bold and find the ways to meet the needs of the nation. But for our party, now as always, the counsel of courage is the counsel of wisdom.

If we do not have the courage to lead the American people where they want to go, someone else will.

Here is one-third of a nation ill-nourished, ill-clad, ill-housed—now!

Here are thousands upon thousands of farmers wondering whether next year's prices will meet their mortgage interest—now!

Here are thousands upon thousands of men and women laboring for long hours in factories for inadequate pay—now!

Here are thousands upon thousands of children who should be at school, working in mines and mills—now!

Here are strikes more far-reaching than we have ever known, costing millions of dollars—now!

Here are spring floods threatening to roll again down our river valleys—now!

Here is the dust bowl beginning to blow again—now!

If we would keep faith with those who had faith in us, if we would make democracy succeed, I say we must act—Now!"

ADDRESS BY SENATOR TOM CONNALLY

The following address of Senator Tom Connally, as delivered to a Joint Session of the House and Senate on

last Tuesday, March 2, was ordered printed in the Journal:

Address of United States Senator Tom Connally before a Joint Session of the House and Senate of Texas on Tuesday, March 2, 1937.

"Mr. Connally: Governor Allred, President of the Senate, Speaker of the House, Senator Holbrook, General Keeling and Fellow Citizens: Allow me to express my grateful appreciation to your distinguished Governor for his generous words of presentation, to this fine and splendid audience, and to the two bodies of the Legislature may I give utterance to my deepest thanks for your courtesy in inviting me in the midst of a busy session and in the midst of intricate and perplexing problems and to spare me a portion of your time and to do me the honor of addressing you in joint session. I trust that tonight the memories of forty years that have been recalled by General Keeling may serve in some way to inspire me to endeavor to express to you my thoughts upon some of the public issues now prominently before the American people. I treasure the friendship of General Keeling and others extending back to that time when we were school boys here in the University of Texas, and from that second day of March celebration in 1897 I gained some of the incentive to study the history of my own State and what March the second signified in the history of that mighty commonwealth of ours, and I drew some inspiration while still in the University in its law classes to undertake to look back upon the history of our great United States and to study some of the great fundamental things that lay at the very root of our great political system, and so Texas is indeed fortunate, she is the inheritor of all that began in 1776 when the colonists dared to fling into the face of a king that splendid Declaration upon which later the structure of our Constitution and fundamental law was established. In addition to that, Texans on the second day of March of every year have cause to be proud that they can look back to their own day of independence yonder at Washington on the Brazos, where a band of hardy pioneers with six hundred years of Anglo-Saxon struggle for liberty and for self-government coursing in their veins gave utterance to another great declaration of political independence—a political charter, a charter of liberty that was later embodied in their own constitution. And so, my friends, tonight under the inspiration and the compelling force of these happy memories, and in the indulgence which you have shown me tonight in inviting me to address you as your public servant, I trust that I shall not trespass upon propriety if I embrace this opportunity to discuss perhaps the most prominent, the most pressing public issue now before the people at this particular moment, and that is the question of the President's proposal relating to a reorganization of the Supreme Court of the United States.

On the ninth day of February I gave to the press the following statement:

"I am opposed to an increase in the members of the Supreme Court to fifteen in the method and under the circumstances proposed. In the matter of inferior Federal Courts, I am of the opinion that reform can be accomplished in expediting business and in the representation of a government in cases involving the Constitution, and in that respect I am in favor of appropriate action."

I now reiterate and affirm that statement. (Applause.) Let me say, my Countrymen, that tonight I speak for no one save myself. The sentiments which I shall utter are my own, and I essay to dictate nor to suggest to any other Senator or to any other citizen a denial of his or their right to follow the direction of their own conscience.

At the very outset of these remarks let me say this—let me make it clear that I am a devoted personal friend of the President of the United States, Franklin D. Roosevelt. That friendship has not been interrupted, and I trust that it may never be interrupted, and, my fellow citizens, tonight if this were a matter purely of personal friendship, I should be standing beside the President of the United States. I have long been his political friend. In 1932 at the Chicago convention, as some of you may remember, I was the Chairman of the Texas delegation. In that convention at a critical stage when the votes of Texas and California alone were required and necessary for the nomination of Mr. Roosevelt as the Democratic candidate for president, I exerted my poor abilities and my humble influence to turn a sufficient number of the Texas delegation to support his nomination. The dele-

gates voted for Mr. Roosevelt and California voted for him, and he was thus made the nominee of the Democratic Party. In that campaign of '32 I campaigned in many states of this Union with an enthusiasm and with an interest that have never stirred me so much in any other presidential campaign within my recollection. During the past four years in the United States Senate, I have, with one or two exceptions, supported earnestly and enthusiastically the economic and social measures advocated by the President, which in their entirety have gone to make up that splendid constructive program which earned and deserved and received the overwhelming approval of the people of the United States in the election of 1936. I did not vote for the N. R. A., it is true. I do not think anybody now wants the N. R. A. My friends, in 1936 I was again Chairman of the Texas delegation at Philadelphia, and I seconded the nomination of President Roosevelt for renomination, and in the campaign of 1936 I campaigned in ten states of this Union, carrying as best I could his cause and his name and his flag to the American people. So tonight the fact that I disagree with him on this issue is no indication, it is no evidence of personal loyalty to him or of political loyalty, when a party question is involved, and if tonight this were a matter of personal friendship, if it were a matter of partisan politics alone, I should be standing under the President's banner; but, my countrymen, this question, as I view it—and I am speaking for myself alone—is so fundamental that it transcends personal friendship. (Applause.) It is so vital and reaches down so far into the very structure, and the very form of this government and into the great traditions upon which it rests that it is deeper than partisan politics. (Applause.) It is not a partisan issue. We find in Washington Senators of different political creeds standing side by side with relation to these issues. For instance, we had a distinguished Republican from another State to stand on this platform a few nights ago and advocate the proposal, whereas in Washington we have many Democrats and some Republicans on the other side of that question. So I regard it as not a partisan political question.

My fellow citizens, I have been grateful to the people of Texas for the great honor and trust which they have reposed in me as their Junior Senator, but, my friends, let me remind you that even after you had elected me and commissioned me I could not cast a vote in the Senate, I could not lift my voice in the Senate until first I held up my hand and upon all that was Holy and sacred took a solemn oath to uphold, protect and defend the Constitution of the United States. (Applause.) That was the only oath required, that was the only obligation demanded, that was the only duty commanded, and in that oath, my fellow citizens, I assumed no obligation—I assumed no obligation to support any plan of any platform of a political party when it violates my superior obligation to support the Constitution of the United States. (Prolonged applause and cheers.)

These matters are so vital, they touch so intimately the constitutional guarantees in the American Bill of Rights and in the vast stretch of our Constitution that I must in such a situation follow my conceptions of my own duty and my own obligations to you, to the people who have trusted me and to the Constitution which I have sworn to uphold. (Applause.) However personally painful, however politically inexpedient it may be to disagree with the views of the President, I have no alternative except to follow my own conception of duty to the people who placed in me this high trust and the lofty obligation that I owe to my country to preserve the Constitution as I found it, until it is changed by the people themselves in the manner provided by the Constitution. (Applause.)

My Countrymen, after the revolutionary war was triumphant and after the colonies had staggered through eight years of chaos and confusion under the Confederacy, they met at Philadelphia to draft a constitution for the new Republic. The men who sat in that convention were learned in the law, they were learned in human nature, they were learned in the sacrifices and struggles of the long, bitter, bloody, heart-breaking years of the revolution; so they were also learned in the history of Anglo-Saxon traditions; they had studied in the courts and in the universities of England; they knew the struggles for free government since the Greeks

met on their hills in the old Amphictyonic League and other institutions of ancient Greece. So when they came to make this Constitution, they were fresh from their experiences in the colonies; they still felt the whip of the royal lash in the laws and in the sacrifices which had been laid upon their backs as subjects of a foreign king. So they set about to set up a government, a government of the people—not of kings, not of rulers, not of parliaments, but a government of the people. And in establishing that government, they set up three branches of it. First, they said the Congress shall represent the lawmaking department elected by the people; they provided an executive to execute the law; and then they established a Supreme Court, and that is the only court mentioned in the Constitution—I mean the only court that is created by the Constitution. It created a Supreme Court of the United States and then left it to Congress to establish such other inferior courts as the Congress may decide. My friends, it provided that each of these branches within its own proper sphere should be supreme. It provided that all of the lawmaking powers should be in the Congress; it provided that all of the judicial powers—and it is here in the Constitution—all of the judicial powers shall be in the Courts. The judicial articles read: "Section 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

They then provided certain checks and balances. While each department of the government is supreme within its own sphere and within its own function, the three branches go to make up the whole of the government, and then they provide for certain checks and balances one against the other. In other words, the President appoints the judges. They can only be appointed when confirmed by the Senate, a check of the Senate against the Executive and a check of the Executive against the Courts. It provides that the President may veto a bill, thus checking the Legislature; but that by two-thirds vote that legislation may be passed over the veto. It provides, on the other hand, that the Courts can be checked by reason of the fact that they put in the hands of Congress the power to impeach; if a judge is corrupt, if he is dishonest, if he is not diligent in the discharge of his duties he may be removed by impeachment. It also provided, Ladies and Gentlemen, a number of checks and balances all through the Constitution. But when it came to the particular jurisdiction and boundary of each department, then the Judiciary was to be independent of the Congress and of the Executive, and the Executive was to be independent of the Congress and of the Courts, and the Congress within the lawmaking power was to be independent of each of the other branches. Now, my friends, that great balance of power has existed in the Constitution of the United States for a hundred and fifty years—a hundred and fifty years of glorious American history. Let me say to you that the Supreme Court of the United States when created by the Constitution was unique in the history of the world. There is no other court like it on this revolving globe of ours. It has attracted the admiration and respect of all civilized nations. It has performed and will continue to perform lofty public service in holding in check the Congress within its boundaries, the Executive within its boundary, and the states within their proper sphere of jurisdiction, and the Federal Government within its proper functions. Let me say to you tonight that in a dual system of government such as we possess, a government of states and then another government operating over the same territory, operating directly upon the same citizenship, a Federal Government without a Supreme Court to tell the Federal Government where its boundary line stops, and without saying to the states your jurisdiction is here, and nowhere else can you conceive of the confusion and vexation that would necessarily ensue. State legislatures and state authorities believing that they had the right to do certain things would do them. The national government might think it had the right to do them and would undertake to do them and there would be clashes of authority between these two systems of ours unheard of in civilized lands. European countries do

not have a dual system such as that. That is one of the reasons why the makers of the Constitution foresaw that with a dual system it was absolutely essential to have a Supreme Court to tell the Congress where to stop, to tell the Executive where to stop, to tell the States where to stop, to tell the Federal Government itself where to stop. Then more than that—more than that this government is a government of limited powers. My friends, whenever you take from the individual certain rights and turn those rights over to the controller of the government, you are subtracting from the sum of human liberty. So when the makers of our Constitution came to make the fundamental law, they said there are certain rights that inhere in every citizen which are above the reach of the law; they are so sacred that neither the Congress, nor the Courts, nor the Executive, nor the States, nor the Federal Government itself shall invade those rights. And Congress said if these rights that we are giving to the citizens here in the Constitution, if they are to be secured to the citizen he must have a forum, he must have a court somewhere to say when those rights are violated and when they are secure. Therefore, they set up the Supreme Court of the United States, a court to which any citizen may appeal, however humble he may be, however obscure he may be, however poor he may be: all that is required is that he possess a right, and if that right is violated by the Congress or the President or the Courts or a State, he may lay his cause on the Supreme Court's desk and secure vindication and security of that right against the government itself. (Applause.)

Now, my friends, George Washington, the Father of his Country, was President of the Constitutional Convention that wrote this Constitution. What did George Washington think of the courts when he was President of the United States and appointed members of the Supreme Court? He said that he considered the judicial system the chief pillar upon which our national government must rest. (Applause.) George Washington, though he be dead, his sacred dust speaks up from the tomb; he had been through the Revolution; he had suffered the tyranny of a British King; he sat in the Constitutional Convention; he helped write this document that set up the Supreme Court, and he testifies that he regards it as the chief pillar of our liberties.

James Madison, great democrat from Virginia, had more to do with the actual drafting of the Constitution than any other member of that convention. What does Mr. Madison think of the Supreme Court and the Constitution? In 1832, long after he had been Secretary of State and eight years President of the United States, in retirement yonder at his home near Arlington, Virginia, no longer entertaining political ambitions, leading the life of a country squire, from his retirement, with the rich reflections and recollections of a half century under the Constitution, said, in speaking of the power of the courts to override acts of Congress, Mr. Madison said: "Without a supremacy in the exposition and execution of them (speaking of the laws) would be as much a mockery as a scabbard in the hands of a soldier without a sword in it. I have never been able to see that, without such a view of the subject, the Constitution itself could be the supreme law of the land, or that the uniformity of the federal authority through the parties to it could be preserved, or that, without this uniformity, anarchy and disunion could be prevented." These are inspired words; they come down like echoes from the hall in which the Constitution was drafted.

Now, Ladies and Gentlemen, when the makers of the Constitution set up the Supreme Court they set it up and their conception of it was a great impartial tribunal, an independent court owing nothing to the President, because he cannot remove them, owing nothing to Congress because it cannot reduce their salaries, with their tenure for life sufficient to maintain them without any hope of reward which may actuate them to rule in favor of the rich and the powerful, without any fear of reprisals or punishment, because they could only be removed for misconduct; as independent as any body which could be constructed. Let me say tonight in speaking to you, my friends, that of all the considerations that enter into this question the one that is most prominent in my mind, the one that looms above the hills of the horizon like a mighty mountain is the question of the independence of the Court. (Applause.) The ages of the judges are secondary. They are mere

individuals; they will pass away by death or retirement in the course of time. The amount of their salaries is not of importance. But when you strike at the independence of a court, you are striking at the very foundations of the Court. (Applause.) Why, my fellow citizens, a court, whether it is a Justice of the Peace Court, or a County Court, or a District Court or the Supreme Court of the United States, a court that is not independent is not a court. (Applause.) It is not a court; it is merely an administrative bureau. They concede this Court with its lofty function to pass upon constitutional questions and great issues that affect the citizenship of the United States, but there are some who say that under the Constitution there is nothing in the instrument that gives the Court the right to declare an act of Congress unconstitutional. Now, let's see what the Constitution says. The Constitution says, "The judicial power of the United States shall be vested in one Supreme Court." What does that mean? Why, it means that all of the judicial power relating to the Supreme Court is vested in that body. And what is that power? Under the common law that power touches every law, whether it is a Constitution or whether it is a statute. Now, let's see what this Constitution says.

"The judicial power shall extend to all cases in law and equity arising under this Constitution." Why, my Countrymen, there is language so plain that a tyro may understand it. Any case which can reach the Supreme Court in either law or equity that arises under this Constitution shall be tried by that Court. How is the Court to determine whether a law arises under this Constitution or without it, unless it has the power to construe that Constitution and to construe that statute and to say whether that statute conforms to the Constiution or is contrary to it. Under this Constitution the laws of the United States and treaties made or which shall be made under their authority—whatever treaties are made must be made under the authority of the Constitution. How could the Court pass upon a treaty unless it determined whether that treaty is made under the authority of the Constitution? Now, let's see what else. "This Constitution"—this is part of Article VI—"This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Under that Article it says, the Constitution of the United States —this great old document—is the supreme law of the land; and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land also; in other words, if an act of Congress is made in pursuance of the Constitution, it is legal; if it is not made in pursuance of the Constitution, it is not legal; and how can the Court decide whether a law is in pursuance of the Constitution or not, unless it has the power to say "No" as well as the power to say "Yes." Inevitably, the Court must decide when any law comes before it as to whether it is made in pursuance of the Constitution. The Constitution is the supreme law of the land. How can it be kept supreme—how can it be supreme if Congress may pass a law contrary to the Constitution, and not have it declared unconstitutional?

Why, my friends, suppose my friend, Walter Woodul, has a suit in the Supreme Court; he makes the claim that his right is derived under the Constitution. Walter Keeling is the other party to the suit; he claims his rights under a statute made by Congress. The Court must decide between these two litigents, one claiming under the Constitution and the other under a statute, and that statute and the Constitution conflict, but the Constitution says that the Constitution is the Supreme Law of the Land. How can the Court decide that case except to rule in favor of Walter Woodul, because his right is secured by the Constitution, while Walter Keeling's is only secured by statute.

My friends and fellow citizens, when John Marshall made similar statements to that in the great case of Marbury against Madison in 1803, he made a statement of an argument that every great lawyer has understood, which was accepted by the people of the United States practically without question for nearly 125 years.

Now, my friends, it may be observed here also that in the Constitu-

tional Convention, when the Constitution was being debated, it was pointed out by participants in the debate that the Court which was being created would have the power, and it should be its duty to declare Acts of Congress unconstitutional when they transgressed the Constitution. In addition to that, before the Revolution—I mean, after the Revolution but before the Constitution, during the days of the Articles of Confederation every State had adopted its own Constitution and its own laws, and in a number of the States State Courts had theretofore, before the Convention met, declared State Acts of its legislature unconstitutional, as being in violation of the State Constitution. That theory was generally accepted in the Colonies, and it was accepted in the Constitutional Convention, that when it gave all of the judicial power to the Supreme Court, that it gave the same power that was possessed by State Supreme Courts in the then States of the Confederation. Why, my friends, even under the Colonies—even under the Colonies the Colonists denounced laws of King George as being in violation of their charters, and therefore unconstitutional, and they ignored many of them and refused to obey them because of their theory that they were unconstitutional because violative of their charters. So this is no new doctrine. It has inhered in the body of the Common Law; it is in the Constitution itself, and it has the veneration of a century and a quarter of custom and practice in these United States. So when you hear these people say that the Supreme Court has no authority to declare an Act of Congress unconstitutional, well, that is chasing a butterfly, that is chasing a will-of-the-wisp; it is a power and a right established fundamentally in the law of this nation, and recognized by every branch of the Government. So tonight I say to you that the proposal which is being urged, according to my mind, would undermine the independence of the Supreme Court.

It is said that its purpose is to get rid of all Judges over seventy years of age, but, my friends, it doesn't do that. Every Judge who desires to remain remains on the Court, but additional Judges are appointed to the number of six, until the total becomes fifteen. So it is not for the purpose of getting rid of the old Judges—they may retire now. We just passed in the Congress a retirement law permitting Supreme Court Justices who have served ten years and are seventy years of age to retire on full pay. That should have been the law all the time, but it wasn't. This situation might have been prevented had that been the law. But the old Judges do not or cannot be forced off by this Act. So that is not the purpose.

Some of those who favor the proposal boldly declare that the real purpose is to put on six new Judges with preconceived opinions, with preconceived views, with preconceived conceptions about certain questions that are now pending before the Court or have recently been pending before the Court, and that the plan and purpose is to put those Judges on for the purpose of changing the complexion of the Court, and reversing in the middle of the game while the players are on the field, the courses of these decisions, and reversing the policies of the Supreme Court. (Applause) If that be the purpose, and that is what many of the proponents boldly declare —if that be the purpose, then that purpose would absolutely undermine and would destroy the independence of the Court. (Applause)

Let me say to you tonight that if that should be done, that precedent will rise up to face us in all of the long years of the future. Let some reactionary Administration obtain power, and it would immediately say, "The Democrats stacked the Court, and now we have as much right to restack as they have had, and we will thereby add enough Judges so that we will have a responsive Court," a Court that will do the bidding of this reactionary Administration, and with the instrumentality of that Court we will overthrow and repeal by Judicial enactment all of the liberal laws placed on the statute books by this Administration in the four years that have already gone. Do you want to establish that sort of a precedent? We may not be in power forever. The likelihood—in the history of American politics at stated periods the parties change, and whenever the other crowd gets into power they not only undo what is now proposed to be done, but they probably perpetrate a more galling and a more obnoxious measure upon the people of that day and that generation. Let me say to you, my friends, that this proposal, if adopted, is a mere expedient.

It does not go down to the roots; it does not go down to the fundamentals. If this old Constitution of ours needs amending, let's amend it in the way that the Constitution says it should be amended. (Applause and cheers) The Constitution provides that it may be amended whenever an amendment is submitted by two-thirds of the two Houses to the States, either in convention or to the Legislatures of the States. About three years ago we passed upon a Constitutional amendment of these United States. The people voted upon it; it didn't take a year to wipe out of existence the 18th amendment by a vote of the people themselves, and there is now no doubt at all as to whether that amendment is a part of the Constitution or not. It requires no Supreme Court to decide it.

Let me say to you that this proposal is a mere expedient. It might result in a reversal of these decisions, and then another Court with added members could reverse them again, and we will have gotten nowhere. But if we submit a Constitutional amendment so plain and so clear and so exact, as there can be no misunderstanding, no Supreme Court on earth can then fail to come to a clear decision as to the power of the Federal Government, and as to the power of the States.

When I took the oath to support the Constitution, I took an oath to support all of it; I took an oath to support that part of it which says if you want to amend the Constitution, this is the way to do it (Applause), and having sworn—(Applause) and having sworn and promised that I will amend it in the legal, Constitutional way, I am not willing to amend it in subterfuge or indirection or around the corner. I want to amend it out in the open before all of the people, in the white light of the public forum where all the world can see what we are doing, and how we are doing it; and then when I do, I want a Supreme Court independent, owing no hope of reward, feeling no fear or threat from Congress, not under the control of the President, not under the control of the Congress, not under the control of anybody except their conscience and their integrity and their learning (Applause). The independence of the Court is more important than any other aspect of this matter. And so when the Constitution makers came to make the Constitution they took care to see that the Court was independent. They prevented the President from removing them. Congress cannot remove except on impeachment through charges. It provided that their pay could not be diminished by Congress; it provided that their tenure should be for life, in an endeavor to remove every temptation, in an endeavor to make them able to withstand pressure from whatever quarter it emanated. They established this lofty great Tribunal with the high impress of the nation, in which these stupendous issues and these mighty questions might be litigated—for whom, for the people. This Constitution belongs to you. Who made it? Why, my friends, the people made the Constitution. They made it when they ratified it; they made it when they fashioned it by their delegates at Philadelphia; they made it when they ratified it and confirmed it in their State Conventions.

Let me say here tonight that the power which the Supreme Court wields does not belong to the Court; it belongs to the people who put the power there in the Court through the Constitution. The power that the Congress wields does not belong to the Congress; it belongs to the people, because the people when they adopted the Constitution said, "We delegate to the Congress the power to make laws." The power which the President exercises does not belong to the President; it belongs to the people of the United States who in their Constitution said "We will part with this power; we will delegate it to the President to be exerted"—for whom, not for himself, but for us.

And so, my friends, tonight the Supreme Court of the United States is the creature of the people. It is their instrument; it is their servant, and the power that it exerts is the sovereign and the majestic power of a mighty people.

Now, let us see—let us see, they derive every ounce of their jurisdiction from the power of the people in the Constitution.

I cannot vote, and I shall not vote to impair or destroy the independence of that great Court that has in its keeping the rights of every citizen in this hall (Applause) and the protection of those rights (Applause)—and the protection of those rights against the Government itself.

Why, you haven't got any rights if you cannot assert them against the Government (Applause). If the Congress can take away your rights you have no rights; if the President can take them away you have no rights; if the Judges can take them away you have no rights. And so here in this old Constitution of ours there are forty-one prohibitions against the Government, forty-one things which the Government cannot do to the citizen. How is the citizen going to secure the protection of those rights against the Government itself unless he can go in yonder to an unbiased, to an impartial, to an unafraid, to a courageous, to a wise, to a patriotic, to an independent Court that owes its seat and its tenure to nobody? (Applause) My friends, the personality —the personality of the members of the Supreme Court is of little consequence. These old men that they speak of at most can only be here a short time; either by death or retirement they will pass away; but the Court—the Court is an institution; the Court must not be destroyed; it must survive; it must continue as a great agency of Government for the maintenance of the rights of the people. (Applause) I am unwilling—(Applause.) I am unwilling, My friends, for the sake of destroying two or three rats in a barn to burn down the barn when the rats are going to leave it pretty soon anyway. When the rats are just ready to leave, why burn down the barn to get rid of three rats?

My fellow citizens, the independence of the Court is of far more importance to the guarantees in the Bill of Rights, to the Constitutional powers of the States, to the proper boundaries of State and Federal authorities, too important to keep in check the Congress and the Executive and the inferior Courts, to destroy or to weaken or to impair its independence.

Ladies and Gentlemen, America gave to the world its conception of a written Constitution; the American Constitution is significant in the history of the world. It is a written Constitution. In Europe, England has no written Constitution. Most of the so-called Constitutions of Europe are on a level with Legislative enactments; they are not real constitutions in any sense; they may be altered or changed or repealed by Parliament or Congress at its will; but here in America the founders said, "We want to put down in writing in a great solemn document the powers of Government and the rights of the citizen which the Government cannot trespass upon," and so they put it down in writing.

My friends, with a written Constitution how can those rights ever be maintained unless somewhere there is an authority to pass upon the Acts of the Congress and the Acts of the President, and to see whether those Acts violate the rights guaranteed to the citizen. Suppose the Congress does something which the Constitution says it shan't do? If there is no Court to stop it, why it goes on, and you have got to obey. Suppose the President should do something—any President should so something that he had no right under the Constitution to do? Unless there is a Court to redress your rights, what can you do?

Why, my friends, it is absolutely elemental—it is so fundamental, it is so plain to anyone who knows anything of the history of the United States and its political and governmental institutions that it is remarkable that anyone should question the necessity—the imperative necessity of a great Supreme Court to pass upon these vital questions.

A written Constitution cannot be maintained without an independent and a fearless Court. If the Court is under the influence of the Executive he might say that "This law that was passed, or this Executive Act which I have done must be upheld by you," then it would be upheld, whether it was in accordance with the Constitution or it was not. Do you want that kind of a system? Do you want to forsake the traditions and the history and the glorious record of America under our great Constitutional system of 150 years and embrace the doctrine that the citizen and his rights shall be subject to the unbridled control of the Congress and of the Executive? I do not think you do. (Applause)

Ladies and Gentlemen, let me remind you. I spoke of European situations. In Germany tonight the citizens of Germany have no Supreme Court such as we have here to which the citizen may appeal for his life or his liberty. The Government of Germany is the absolute master of the lives and liberties of the people of that

land. And you know the melancholy stories and the melancholy cries that come out from Germany. In Russia there is no Supreme Court such as ours to which the citizen can appeal for protection from the Government itself, and the result is that the citizen and his property and his liberty and his life are absolutely subject to the dictates of whoever is running the Government of Russia for the moment. You heard echoing across the Atlantic the rattle of musketry only a few weeks ago when scores of Russian citizens were lined up against a wall and shot by the Military in a Court Martial trial. My friends, Italy —Italy and Europe has no Supreme Court to which the citizen may appeal like we may here against the force of the Government, and the result is that the Italian Parliament and the Italian Ruler—the Premier are the absolute autocrats of the lives and liberty and property of the people of Italy.

Do we want such a Constitution here in America? The Government is master; whatever it decrees is the law, regardless of Constitution, because it has none except a statutory Constitution.

I want to revert just a little bit now to say to you that here in America,—that the Supreme Court is the only tribunal on earth that may say to the government itself, "Thus far, and no farther, may you go against your citizens."

A distinguished Englishman, the great historian, Buckle, once said of the American Declaration of Independence—listen at these words: "In 1776 the Americans laid before Europe that noble declaration, which ought to be hung up in the nursery of every king, and emblazoned on the portals of every royal palace." He was talking about the Declaration of American Independence. You know what that Declaration contains. Among the great list of charges which it lays at the feet of King George, it says; in that Declaration one of the causes of the Revolution against King George, it says: "He has made judges dependent upon his will alone for the tenure of their offices, and the amount and payment for their salaries."

When Thomas Jefferson penned that great Declaration he remembered that King George held the judges in his hand, and said who might serve, and how long they should serve, and claimed the right to fix their salaries, and one of the things against which the American colonists rebelled was a judiciary controlled by the King. And so, when they established this government, the Americans, remembering the judiciary that was subservient to the British government, King, and Parliament, set up this Court and made it independent and made it secure. They placed it so high that the hand of Congress could not reach it; they placed it in a position where the Executive could not sway it and could not influence it, leaving to them and their conscience and their duty, and their patriotism to meet the great issues of that time.

Now, shall we change that magnificent conception? Shall we in a moment of exasperation, because of a few decisions that do not suit us, destroy a great instrument that has been the glory of American jurisprudence and the glory of American life—an institution for 150 years? Shall we, in a moment of petulance, do that, which in the years to come, yonder to your children, perhaps to your children's children, way down the road of this Republic, may rise up to damn and condemn us? I don't think we want to do that. (Applause)

Just a little and I am done. Let me give you a little more history; let me give vou a little more Constitutional history, with which I am sure most of you are familiar,—a history as it affects the liberty of the individual, and the power of the Court to protect its citizens.

One of the greatest decisions in the history of America is the Milligan case. Milligan was a citizen of Indiana. During the war between the States he was a Southern sympathizer, and he gave utterance to his sympathies. President Lincoln ordered him arrested by the military authorities. He ordered him hauled before a military court convened by the Commanding General of the Department of Indiana. Milligan was tried by that Federal military court. He was sentenced to die. He was sentenced to death. Finally, in 1866, or 1865, perhaps it was, his attorney sued out a writ of habeas corpus. It finally reached the Supreme Court of the United States. That Court held that he had not had the right of a trial by jury, one of the most sacred possessions of the Anglo-

Saxon race. The Constitution says that a citizen shall have the right of trial by jury in Federal courts. When that case reached the Supreme Court, Judge David Davis, a Republican, but a great and an honest man, rendered the decision in that case. He held that since Federal courts in Indiana were open during the entire time and were expected to have business transacted within them, that Milligan was entitled to be tried in a civil court and was entitled to a jury trial. It held that the trial before the military tribunal was void; that the action of the Executive was unconstitutional. Here we have a brave, courageous Republican Court,—Republicans, all of them—rising up and saying: "Mr. President, powerful as you may be, President of the great Republic, the Commander-in-chief of the Army and Navy, you are not powerful enough to order a private citizen, no matter how humble he may be, no matter how odious his conduct might have been, no matter how much passion and prejudice, Mr. President, you cannot command that that citizen be denied his right under the Constitution for a jury trial in a civil court, and not by a military tribunal." (Applause)

Let me read you just a little of what Judge Davis said in that decision. It reads like a bugle call in the cause of liberty. Here is what he says—Judge Davis in the course of the opinion of the Court said: "The Constitution of the United States"—hear me now—"The Constitution of the United States is a law for rulers and people, equal in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the whim of man than that any of its provisions can be suspended during any of the great exigencies of government." There is a great Court unafraid of the President, unafraid of a Congress, unafraid of the powers of both of them, saying to the President, and to a fanatical Congress, stirred by passion and hatred of the South, saying to both of them: "You have violated the Constitution. It is true that the man at bar has odium all over him, and he is humble; but he has a right, and that right is given to him by the Constitution of the United States, to be tried by a civil jury in a civil court," and Mr. Milligan's life was saved because the Court was brave enough to uphold the Constitution of the United States against both the President and Congress. (Applause) Thank God for such a Court; may we always have such a Court. (Applause)

Let me say here now that I don't pretend that I always agree with the Supreme Court. I don't. I think the Supreme Court has made mistakes. Do you know anybody that has not? I think Congress makes mistakes. I know many Presidents of the United States have made mistakes. My friends, of course, it makes mistakes; but because it makes mistakes is no reason for destroying it or impairing its opportunity to cure those mistakes, and to administer its functions according to the law, and its consciences, and the Constitution. Where is there any instrument in the world which is man made which is not full of faults? We have no other people out of which to make judges except human beings. There is nobody else except human beings, and courts made up of human beings, just as Congress is made up of human beings, and Legislatures, and Governors, and Presidents, and everybody else, are subject to making mistakes, and if those mistakes are honest mistakes, they may be corrected; if they are corrupt mistakes, the courts are open for their punishment, and Congress is open for their impeachment.

Now, a little more history. Many of you don't remember personally, but you remember the history of that dark and dismal period after the War between the States,—that cruel period that we refer to as the days of Reconstruction. Let me remind you that the South had been disfranchised; its members had been expelled from Congress. Its fair fields had been ravaged by war; its slaves had been freed. The courageous soldier that had carried the banners of the Confederacy had been required to take test oaths, denied the right to hold office, denied the right to vote; and the South was stricken with suffering; and a rabid majority in the United States Congress, led by that southern hatred, enacted the most oppressive and the most rigorous laws which all the deviltries of passion and prejudice could evise for the regulation of the South. One of those laws was called the Civil Rights Bill. What did that law provide? It pro-

vided that anybody in the South who denied to colored people—negroes—the same facilities in hotels and in boarding houses, and in theatres, and trains, or in any other public assembly, should be subject to a penal offense, and either to a heavy fine or to imprisonment in the penitentiary. If you refused to place yourself upon social equality with the colored people of that time and that period, you became a felon and a law breaker. Of course, the law was unconstitutional, but Congress passed it. It was signed by the President, who said it was legal. Here we had the Executive and Congress approving this law. What happened? Finally, they were able to get the case into the Supreme Court of the United States, and what did that Court do, though it was a Republican Court? It held that that act was unconstitutional and void; it held that that act invaded the rights of the states in controlling their own internal affairs and in regulating their police power.

Why, my friends, what did they do in Congress? They immediately in Congress demanded to destroy the Supreme Court because it had upheld the Constitution in favor of the South. There arose a demand that there be taken away from the Court the power to hold acts unconstitutional. And, if President Grant had had his way the South would have had to live under all of that agony and suffering, which no pen and no tongue can depict; and if the Congress of the United States had had its way, in spite of the Constitution, and in spite of the Supreme Court, the South would have had to live on terms of social equality with their recently enfranchised slaves, and to drag their women and daughters down to a life of infamy and degradation. But thank God, we had a Supreme Court that said fearlessly: "Mr. Government, Mr. Congress and Mr. President, you cannot invade the rights of the Southern people; you cannot invade the rights of her private citizens; thus far can you go, and no farther." (applause)

That is only one of a whole series of laws. They passed another law in Congress at that period providing for Federal control of elections within the states, and making it a Federal offense for state officers to do certain things. They wanted to control the election machinery of the South. Congress passed it, and the President approved it; and the Supreme Court of the United States,—again a Republican court, but an honest court, a fearless court,—rose up and said, "You can't do it, Mr. President; you can't do it, Mr. Congress; these people have rights that are put down here in the Constitution of the United States."

There were other cases,—the test oath cases. Congress passed a law that every Southern soldier must take a test oath before he could again be a citizen. That test oath required that he foreswear his service in the Confederacy. He must either commit perjury or be denied citizenship; and the Supreme Court of the United States rose up and declared that act of Congress unconstitutional; yet, if Grant had had his way, and if the American Congress had had its way, the South would have had to live under this terrible and obnoxious law.

Now, Ladies and Gentlemen, I hear much talk by so-called Liberals. Everybody talks about being a Liberal. Why, my friends, how any Liberal would want to destroy the Constitutional guarantees and the security of the Supreme Court, I cannot understand. The Constitution of the United States, when it was adopted, was looked upon as political Liberalism, the like of which had never been seen in the history of the world. Real liberalism means progress under law, and under the Constitution real liberalism means security to individuals of their rights against the power of government. But these so-called Liberals want to confer more power on the Federal government, that means more power over the individual, and the lessening of his liberties and of his rights. I am a Liberal. I claim to be a Liberal. I have always since I have been in Congress voted for those measures which were regarded as liberal; but I am a Liberal under the Constitution; I am a Liberal under my oath to live under American institutions until we change them as American institutions require.

I want to ask these so-called Liberals,—suppose President Harding had requested the power to appoint six Federal judges on the Supreme Court; what would they have said? I say they would have denounced it from one end of this Republic to the other.

Suppose Mr. Hoover, Mr. Liberal, had demanded the right to add six new justices to the Supreme Court for the purpose of changing its complexion, what would you have said, Mr. Liberal? You would have denounced it, and have abused Mr. Hoover for proposing it.

Let me say to you tonight that if this thing is adopted it will be a precedent which will be applied in the future to not only undo Acts of Congress, but to heap added mistakes upon our heads.

I see in the press that some prominent members of organized labor are in favor of this plan. Let me say I am in favor of the man who toils, —a Legislative record of about twenty-four years, beginning here in this Chamber in 1901, reveals that during my entire career I have voted for those measures which secure for labor its fundamental rights—those humane measures which sought to secure to the man who toils a fair income and favorable working conditions, and the right to be heard in collective bargaining. Let me warn labor tonight, be not deceived; do not fear but what this sort of a precedent may rise up in the years to bring about your undoing.

What is the laboring man? Why, my friends, whenever you turn over to the Government the entire control of industry and labor, you turn over the control of the laborer himself. Tonight, in Italy, the man who labors, takes a job at what the Government says he must get; he takes the job and works as many hours as the government says he must work, and if he does not like the hours, and if he does not like the pay, he works anyhow—he works anyhow. Why? Because, in Italy, that laborer does not have these Constitutional guarantees; because in Italy there is no Supreme Court that can say to the government, "You cannot do this to this citizen,—to this laboring man," because in Italy the Government is supreme, without a constitution but with a supreme head. Let me warn the laboring man that to increase the power of government over him is going to decrease his liberty of action in the years to come. Let me suggest to the laboring man, who, in America, is there anyone more than the laboring man who needs the protection of his rights in the courts? Frequently, the laboring man has nothing but rights; that is all he has. The rich and the powerful require no protection. They may secure by their power of wealth and influence protection without the aid of the Courts. Only about fifteen per cent of our people are people of substance, or of wealth, or of means. Eighty-five per cent of our people are practically without means; they have no wealth; all that they possess are these guarantees of individual rights; that is all they have to take to the courthouse, and if you take those away, or if you take away a great court in which those rights can be preserved and maintained, you are robbing the petitioner of all that he has. So, Mr. Laboring Man, and Mr. Liberal, ponder these things.

Now, what is the need of the laboring man? One of the needs of the laboring man, and every man, is the right of trial by jury. This Constitution says here that he is entitled to a trial by jury. Why, if Congress should pass a law denying a trial by jury where can the citizen go except to the Court to get it? But you will say nobody will deny the right of trial by jury. The Federal Government in the District of Columbia, and in several other cases, has denied the right to trial by jury. And only the Supreme Court secure the right to the petitioners in those cases. President Lincoln, in the Milligan case, did deny the right of a trial by jury, and but for the Supreme Court a citizen would have been hung without a jury trial.

Ladies and Gentlemen, the Constitution says that it guarantees freedom from unreasonable search and seizure; but suppose Congress passed a law providing for unreasonable search and seizure, what redress have you except in the courts, and if need be, in the Supreme Court of the United States?

The Bill of Rights says that no person shall be held to answer for a capital, or other infamous crime, except on an indictment by a grand jury. But suppose Congress or the President orders a citizen arrested and tried without an indictment. how can he get redress except in the courts, and if need be, in the Supreme Court of the United States?

The Constitution provides that a person shall not be subject to being put twice in jeopardy; but suppose

Congress provides by law that he can, how can he secure that right except in a court of law under the constitution to secure the right which the Constitution gives him?

It is provided that no citizen shall be compelled to be a witness against himself; but suppose Congress passes a law, or the President, through his military or judicial officers, undertakes to make him be a witness against himself, where can he get redress except in a court?

It is provided that a person shall be confronted with the witnesses against him; but suppose Congress passes a law that he does not have to be confronted by the witnesses against him, where can he get redress except in the law and in the courts under the Constitution which gives him that right?

The Constitution says that the nature of the accusation against him shall be made known to him; but suppose they do as they did in England three hundred years ago, drag him into a star chamber, a secret court where he has no right to know the charges against him, where can he get redress except in the Supreme Court?

The Bill of Rights provides that excessive bail shall not be required, nor cruel or unusual punishment inflicted; but suppose Congress or the President changes that rule, where can the citizen go except to the Supreme Court of the United States? Where will the laboring man go; where will the Liberal go, when he has nothing to take to court except these rights that his government and the Constitution of his government give to him?

I will remind the press here tonight that the Constitution guarantees freedom of the press; but suppose Congress, or suppose the President, through his military officers, should undertake to limit the freedom of the press, or to suppress the press, where can the press go except to the court, and if need be, to the Supreme Court, to secure its constitutional guarantee?

I would remind you that the Constitution gives us the freedom of speech, the freedom to utter our thoughts, so long as we do not trespass upon the rights of another; but suppose an arbitrary Congress or Executive should limit the right of free speech, where could the citizen go to secure the assertion and maintenance of that right except to the highest court in these United States?

My fellow-citizens, all of these rights,—many of them which I have not mentioned here tonight, but with which you are familiar,—everyone of them depends upon the Constitution of the United States. If any be violated by Congress, or it may be violated by the President, or if they be transgressed by military or other officers of the United States, the citizen has no tribunal to which to give appeal except to the honorable and impartial, and courageous, and indipendent, and patriotic Supreme Court of the United States. Praise God, that we shall always have that kind of a Court. (applause.)

Let me say to the laboring man here tonight, and to these so-called Liberals, that a few weeks ago I sat in the Supreme Court room at Washington when they were handing down decisions. They read a decision in a case from the State of Oregon. The defendant in Oregon was charged with violating a State law called a law against syndicalism. He had been tried in Oregon and sentenced to eight years in the penitentiary. What were the facts in that case? The facts were that he had attended a political meeting,—a so-called radical political meeting; he had made no speech; he had said nothing to incite the people to violence or the breaking of the law; but they found his name on a list of membership of the organization under whose auspices the meeting was held; and on that kind of proof he was condemned to spend eight years in the penitentiary, under that law of Oregon. But what did the Supreme Court decide? I didn't know the case was on the docket, but I was glad to be able to sit there and listen to that opinion. It held that the citizen, humble though he might be, poor though he might be, had not had due process of law under the Oregon statute. It held that his trial without more proof than had been adduced was a travesty upon justice. It held that he had not been given due process of law and he was liberated.

But, Mr. Liberal and Mr. Laboring Man, remember what might become possible in this Republic if there should ever be in power this same kind of forces that passed that kind of statute and undertook to enforce

such a statute. A man who had committed no crime, who had uttered no unpatriotic statements was condemned to languish eight years in prison, and he was saved alone by the Supreme Court of the United States. (applause.)

Now, my friends, one other thing, and then I am done. The first article of the American Bill of Rights provides as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." During the days of the Colonies there were state religions in a number of those colonies. In Massachusetts and in New England, the people were hanging witches and sending them to their death. They were imprisoning poor, innocent persons on charges of witchcraft, taking from them their lives and their liberties; and so, when our forefathers, from an experience with an established church, and from the punishment of so-called witches, came to write this Constitution, they provided that in America every man and every woman should have the right to choose their own officers, who should rule over them; that they should have the right to choose their own God; and they should have the right to select their own religion; nowhere should Congress ever by law pass any act affecting the establishment of a church or of religion. That is one of the most sacred possessions of the Anglo-Saxon race and of the American people. Let me tell the people of America tonight there is no single creed, there is no single denomination in America that is not within itself a minority. Suppose,—and you know what is happening in Europe; you know what is happening to religion in Russia; you know what is happening to religion in Germany; you know what is happening to religion in many parts of the earth—suppose a wild, rabid majority some day in Congress should see fit to pass a law giving some particular preference to this creed or that religion, what do you think could ever accomplish to save your rights of freedom of worship and religion except to appeal yonder to the Supreme Court of the United States to make good your rights? (applause.) My friends, for myself, as an individual, and as a public servant, I stand for the absolute right of every man and every woman to worship God according to his own fashion. I want him, whether he worships and contemplates his faith beneath the arched roof of a great cathedral, or before the humble altar of the poor, to regard that as a right so tender and so sacred that the hand of no government, the hand of no executive, the hand of no congress, shall or ought ever to be permitted to profane or to pollute it. (applause.) My friends, the Constitution and the Court are all that stand between you and religious servitude, or the denial to you of religious liberty.

In conclusion to you, my friends, let me say to you tonight that this question, according to my view, ought to be dealt with directly, and not indirectly. It ought to be submitted to the people of the United States. The great people of America possess an authority higher than the Constitution itself; the people, after all, is the residuary of every power of sovereignty. They have the right to unmake this Constitution. They had the right to make it; they did make it; they set forth its provisions; they assigned to the Court its function, and to Congress its, and to the President his function. Then they said we will reserve from all of you a vast domain of private, personal rights; those we save to the citizens; the Government cannot touch them; neither Congress, nor the Courts, nor the President can touch them; and then, we reserve to the people certain governmental rights that the Government don't possess, and the States don't possess, and that are reserved to the people. Then the people said, we reserve unto ourselves the right to change this Constitution. No Congress has a right to change it. They said no President has a right to change it; no Court has a right to change it. Only the people of these United States have the right to change that Constitution. (Applause.)

So, my countrymen, tonight, if the Congress does not possess sufficient or adequate power to deal with the problem with which we are confronted, let an amendment to the Constitution clearly and exactly outlining that proposed additional authority be submitted to the people of the United States themselves to be voted on at the ballot box.

Now, what did our platform say about that last fall? You remember the platform of 1936 yonder at Phila-

delphia. Many of you were there. I was there as one of your delegates. In that platform here is what we said: "If the social and economic program of the party cannot be solved by legislation within the Constitution, we will seek such power by qualifying amendments as will assure the legislatures of the several states and the Congress, each within its own jurisdiction, the power to enact those laws."

When we went before the people last November we told them in this platform, and we told them from the stump; I told them; other speakers told them, that we were in favor of the social and the economic measures of Mr. Roosevelt in the main; we were in favor of this great forward-looking, liberal program, and if we could not accomplish it under the Constitution as the Constitution now is, we would propose in Congress an amendment to the Constitution giving us the necessary and the adequate power. That is what we said to the American people last November, last August, last September, and last October, up to the November election, that is what we went before the country on.

Ladies and Gentlemen, I stand on that platform tonight, just as I stood on it before the election in November. (Applause.) Let these questions be submitted to the American people, where they may go to the ballot box, the humble citizen, and the powerful citizen, the citizen of poor finances, and the man of great wealth, the weak and the rich, and the humble and the great, all on an equality, where every man's ballot counts the same, and let the American people say whether or not they want this Constitution amended and Congress given the additional power which it may need to carry out this program.

Those tonight are my sentiments. I have a sublime faith in the people. If I did not trust the people I would despair of democracy. If the people could not have been trusted, this Constitution would never have been fashioned. The people under it for one hundred and fifty years have solved their difficulties and have risen to an eminence in the world, industrially, commercially, agriculturally, on the field of battle, and in times of peace, and have woven a history and a destiny unrivalled in all the ages that have passed over the Earth; and tonight, if I could not go back to the American people and trust them to do the right thing I would despair for the future of my country. Let this matter be submitted to the people, and I shall cheerfully abide by their decision.

In conclusion, let me say, my friends, that, as to the Supreme Court, the conception of that Court in the Constitution, and the conception of it for one hundred and fifty years has been that of a lofty, impartial, independent tribunal; not terrified by threats; not bought, and not prejudiced by money; a court that acts without the hope of reward, and without the fear of reprisal; a court which has for its only guide-post its own wisdom, its own integrity, its own convictions of duty to the Constitution and the law; a court, my friends, that can hear neither the loud, coarse howls of the mob, nor yet the silent and commanding voice of the masses; a court, my friends, established by the people in their Constitution; a lofty, impartial tribunal. Before that kind of a tribunal I am willing to be tried,—a tribunal, to which I as a citizen, and you as a citizen, however humble, however weak, however obscure, may appeal, and may ask the protection of the Court in these inalienable, unprejudiced, and unbought rights of an American citizen. I shall not vote to destroy either the independence or the integrity of such a court. I thank you." (Prolonged applause.)

ADJOURNMENT

Mr. Bond moved that the House adjourn until 10:00 o'clock a. m., next Monday.

Mr. Keefe moved that the House recess to 10:00 o'clock a. m., next Monday.

Question first recurring on the motion by Mr. Bond, it prevailed, and the House, accordingly, at 12:35 o'clock p. m., adjourned until 10:00 o'clock a. m., next Monday.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills and resolution, as follows:

Appropriations: House Bills Nos. 204, 252, 373 and 975.

Commerce and Manufactures: House Bill No. 322.

Counties: House Bill No. 675.

Constitutional Amendments: House Joint Resolution No. 23.

Education: House Bill No. 469.

Game and Fisheries: House Bills Nos. 31, 32, 34, 627, 629, 661, 699, 750, 757, 790, 804, 806, 809, 810, 846, 889, 958 and 965.

Highways and Motor Traffic: House Bills Nos. 259, 531, 683 and 712; Senate Bill No. 342.

Insurance: House Bills Nos. 318 and 441.

State Affairs: House Bill No. 349; Senate Bill No. 415.

The following committees have filed adverse reports on bills, as follows:

Highways and Motor Traffic: House Bill No. 455.

Insurance: House Bills Nos. 332, 365, 388 and 445.

Revenue and Taxation: House Bills Nos. 336 and 658.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,
Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 230, A bill to be entitled "An Act providing an open season for the taking and shooting of squirrels; providing an open season for the shooting of quail; providing a bag limit for squirrels, a bag limit and possession limit for quail; providing a penalty for any violation of this Act; repealing all laws in conflict with this Act; providing that the provisions of this Act shall apply to Shelby County only, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 288, A bill to be entitled "An Act providing for emergency relief for certain school districts in Texas to aid certain districts in the payment of teachers' salaries and in equipping certain school buildings in certain districts in which there has been an influx of children within scholastic age since the last scholastic enumeration in the State; making an appropriation to each of said district for said purposes; prescribing the manner of disbursing the funds appropriated by this Act, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 462, A bill to be entitled "An Act to amend Section 2, Article 923qa-6, Penal Code of Texas, by exempting Bosque, Johnson, and Hill Counties, from the provisions of Section 2 thereof, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 498, A bill to be entitled "An Act amending Chapter 6, Article 6954A of the Revised Civil Statutes of Texas by including Victoria County, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 548, A bill to be entitled "An Act making appropriation from the Treasury of the State of Texas from funds not otherwise appropriated, to the Central Colorado River Authority, providing for the method of drawing warrants, providing for the repayment thereof, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 560, A bill to be entitled "An Act increasing the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and/or traveling expenses in counties with a population of not less than sixteen thousand six hundred (16,600) and not more than seventeen thousand sixty (17,060) according to the last preceding Federal Census; repealing all laws or parts of laws in conflict herewith, declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

Austin, Texas, March 4, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 972, A bill to be entitled "An Act making an appropriation of the sum of Two Hundred and Fifty Thousand Dollars ($250,000.00) or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Forty-fifth Legislature, and to pay any unpaid accounts of the Third Called Session of the Forty-fourth Legislature, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

WESTBROOK, Vice Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,
Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 218, "An Act to amend House Bill No. 423, Acts of the Forty-fourth Legislature, Regular Session, by providing that Limestone, Robertson, Milam and Lee Counties be excepted from the provisions of said bill, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 972, "An Act making an appropriation of the sum of Two Hundred and Fifty Thousand ($250,000.00) Dollars or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Forty-fifth Legislature, and to pay any unpaid accounts of the Third Called Session of the Forty-fourth Legislature, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

Austin, Texas, March 5, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 48, Authorizing the Enrolling Clerk to make corrections in House Bill No. 218.

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

In Memory of

Judge Joseph Ryan

Mr. Felty offered the following resolution:

Whereas, The House of Representatives has learned with regret of the death of Judge Joseph Ryan, on Sunday, February 29th, 1937; and

Whereas, Judge Ryan was an honored and valuable citizen to the City of San Antonio and the State of Texas, and his death is recognized as a distinct loss to our State; and

Whereas, Judge Joseph Ryan was born in 1868, and during his life-time has rendered notable service as a lawyer, civic benefactor, public servant and outstanding leader in Masonic work; and

Whereas, Judge Ryan, at the time of his death was serving with distinction as a member of the Supreme Court Commission of Appeals of the State of Texas; now, therefore, be it

Resolved by the House of Representatives, That we deeply regret the untimely passing of this noted leader, and extend our sincere sympathy to his bereaved family; and, be it further

Resolved, That a copy of this resolution be spread upon the House Journal of today in memory of the deceased and when the House adjourns today it do so in respect and in memory of Judge Joseph Ryan; and, be it further

Resolved, That the Chief Clerk of the House of Representatives be instructed to forward a copy of this resolution to the family of Judge Ryan.

FELTY,
DICKISON,
McCRACKEN,
CARSSOW,
READER.

The resolution was read second time.

Signed—Calvert, Speaker; Adkins, Alexander, Alsup, Amos, Baker, Bates, Beckworth, Bell, Blankenship, Boethel, Bond, Boyer, Bradbury, Bradford, Bridgers, Broadfoot, Brown, Burton, Cagle, Callan, Cathey, Cauthorn, Celaya, Cleveland, Colquitt, Davis of Haskell, Davis of Jasper, Davison of Fisher, Davisson of Eastland, Dean, Deglandon, Derden, Dollins, England, Farmer, Fielden, Fox, Fuchs, Gibson, Graves, Hamilton, Hankamer, Hanna, Harbin, Hardin, Harper, Harrell, Harris of Archer, Harris of Dallas, Harris of Dickens, Hartzog, Heflin, Herzik, Holland, Hoskins, Howard, Huddleston, Hull, Hyder, Jackson, James, Johnson of Ellis, Johnson of Tarrant, Jones of Angelina, Jones of Atascosa, Jones of Falls, Jones of Wise, Keefe, Keith, Kelt, Kenyon, Kern, King, Knetsch, Langdon, Lankford, Lanning, Leath, Leonard, Leyendecker, Little, Loggins, London, Lucas, Mann, Mauritz, Mays, McConnell, McDonald, McFarland, McKee, McKinney, Metcalfe, Moffett, Monkhouse, Morris, Morse, Newton, Nicholson, Oliver, Palmer, Patterson of Mills, Patterson of Travis, Petsch, Pope, Powell, Prescott, Quinn, Ragsdale, Reed of Bowie, Reed of Dallas, Rhodes, Riddle, Roark, Ross, Russell, Rutta, Schuenemann, Settle, Sewell, Sharpe, Shell, Simpson, Skaggs, Smith of Hopkins, Smith of Matagorda, Smith of Tarrant, Stevenson, Stinson, Stocks, Talbert, Tarwater, Tennant, Tennyson, Thornberry, Thornton, Vale, Waggoner, Walker, Weldon, Westbrook, Winfree, Wood and Worley.

On motion of Mr. Hoskins, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.